



भारत का राजपत्र The Gazette of India

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सं. 17]

नई दिल्ली, शनिवार, अप्रैल 25, 1998/ वैशाख 5, 1920

No. 17]

NEW DELHI, SATURDAY, APRIL 25, 1998/VAISAKHA 5, 1920

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 6 अप्रैल, 1998

MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCE AND PENSION.

(Department of Pension & Training)

New Delhi, the 6th April, 1998

का.ग्रा. 825—केन्द्रीय सरकार एतद्द्वारा दंड प्रक्रिया
संहिता 1973 (1974 का अधिनियम सं. 2) की धारा
24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते
हुए श्री मृदुल राकेश, अधिवक्ता, लखनऊ को जिला और
सेशन न्यायाधीश/अपर जिला और सेशन न्यायाधीश,
लखनऊ, विशेष न्यायिक मजिस्ट्रेट, केन्द्रीय अन्वेषण ब्यूरो
लखनऊ के न्यायालय में मामला सं. आर. सी 3 (एस)/97/
सी वी आई/एस आई सी IV लखनऊ तथा किसी अन्य न्याया-
लय में उक्त मामले से सम्बन्धित अथवा श्रानुषंगिक किसी अन्य
विषय के अभियोजन का संचालन करने के लिए विशेष लोक
अभियोजक के रूप में नियुक्त करती है।

S.O. 825.—In exercise of the powers conferred
by sub-section (8) of section 24 of the Code of
Criminal Procedure, 1973 (Act No. 2 of 1974),
the Central Government hereby appoints Shri
Mridul Rakesh, Advocate as a Special Public pro-
secuter for conducting the prosecution of case
No. RC. 3(S)/97/CBI/SIC IV/Lucknow, in the
Court of District and Session Judge/Additional
District and Session Judges, Lucknow, Special Judi-
dicial Magistrate, Central Bureau of Investigation
Lucknow and any other matter connected there-
with or incidental thereto in any other Court.

[सं. 225/55/97-एनीडी.-II]

हरि सिंह, अवर सचिव

[No. 225/55/97-AVD. II]

HARI SINGH, Under Secy.

(पेंशन एवं पेंशन भोगी कल्याण विभाग)

(ख) इस नियम के अधीन संदेय अतिरिक्त राशि साठ हजार रुपये से अधिक नहीं होगी।

नई दिल्ली, 6 अप्रैल, 1998

[सं. 45/85/97-पी. एंड पी. डब्ल्यू (एफ)]

रतन लाल, उप सचिव

का.आ. 826—राष्ट्रपति, संविधान के अनुच्छेद 309 के परन्तुक और अनुच्छेद 148 के खंड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और भारतीय लेखा तथा लेखा परीक्षक विभाग में कार्यरत कर्मचारियों के संबंध में भारत के नियंत्रक तथा महालेखापरीक्षक से परामर्श करने के पश्चात् साधारण भविष्य निधि (केन्द्रीय सेवाएं) नियम, 1960 का और संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात् :—

1. (1) इन नियमों का संक्षिप्त नाम साधारण भविष्य निधि (केन्द्रीय सेवाएं) संशोधन नियम, 1998 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. साधारण भविष्य निधि (केन्द्रीय सेवाएं) नियम, 1960 के नियम 33ख के खंड (क) और (ख) के स्थान पर निम्नलिखित खंड रखे जाएंगे, अर्थात्, :—

(क) मृत्यु के मास से पूर्ववर्ती तीन वर्षों के दौरान किसी भी समय ऐसे अभिदाता का जमा अतिशेष निम्नलिखित सीमा से कम नहीं होगा —

(i) 12000 रु. या अधिक के अधिकतम वेतनमान में पद धारण करने वाला अभिदाता के मामले में 25000 रु.;

(ii) 9000 रु. या अधिक किन्तु 12000 रु. से कम के अधिकतम वेतनमान में पद धारण करने वाले अभिदाता के मामले में 15000 रु.;

(iii) 3500 रु. या अधिक किन्तु 9000 रु. से कम के अधिकतम वेतनमान में पद धारण करने वाले अभिदाता के मामले में 10000 रु.;

(iv) 3500 रु. से कम के अधिकतम वेतनमान में पद धारण करने वाले अभिदाता के मामले में 6000 रु.;

पाद टिप्पणी :—ये नियम, भारत के राजपत्र में, दिनांक 1 दिसम्बर, 1960 की अधिसूचना संख्या सा.आ. 3000 में प्रकाशित हुए तथा बाद में निम्न अधिसूचनाओं में संशोधित किए गए :—

1. सा.आ. 2002 दिनांक 2 सितम्बर, 1989
2. सा.आ. 710 दिनांक 4 मार्च, 1990
3. सा.आ. 3006 दिनांक 17 नवम्बर, 1990
4. सा.आ. 3272 दिनांक 9 दिसम्बर, 1990
5. सा.आ. 146 दिनांक 20 मार्च, 1993
6. सा.आ. 377 दिनांक 10 फरवरी, 1996
7. सा.आ. 379 दिनांक 10 फरवरी, 1996
8. सा.आ. 3288 दिनांक 23 नवम्बर, 1996

(Department of Pension and Pensioner's Welfare)

New Delhi, the 6th April, 1998

S.O. 826.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution, and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the General Provident Fund (Central Services) Rules, 1960, namely :—

1. (1) These rules may be called the General Provident Fund (Central Services) Amendment Rules, 1998.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the General Provident Fund (Central Services) Rules, 1960, in rule 33B, for clauses (a) and (b), the following clauses shall be substituted, namely :—

“(a) the balance at the credit of such subscriber shall not at any time during the three years preceding the month of death have fallen below the limits of —

(i) Rs. 25,000 in case of a subscriber holding a post in the scale of pay the maximum of which is Rs. 12,000 or more;

(ii) Rs. 15,000 in case of a subscriber holding a post in the scale of pay the maximum of which is Rs. 9,000 or more but less than Rs. 12,000;

(iii) Rs. 10,000 in case of a subscriber holding a post in the scale of pay the maximum of which is Rs. 3,500 or more but less than Rs. 9,000;

(iv) Rs. 6,000 in case of a subscriber holding a post in the scale of pay the maximum of which is less than Rs. 3,500;

(b) the additional amount payable under this rule shall not exceed sixty thousand rupees.”

[No. 45/85/97-P&PW(F)]
RATTAN LAL, Dy. Secy.

Note :—The Principal Rules were published in Gazette of India vide Notification No. S.O. 3000 dated the 1st December, 1960 and subsequently amended by notification numbers :

1. S.O. No. 2002 dated the 2nd September, 1989.

2. S.O. No. 710 dated the 4th March, 1990.

3. S.O. No. 3006 dated the 17th November, 1990.

4. S.O. 3272 dated the 9th December, 1990.

5. S.O. No. 146 dated the 20th March, 1993.

6. S.O. No. 377 dated the 10th February, 1996.

7. S.O. No. 379 dated the 10th February, 1996.

8. S.O. No. 3288 dated the 23rd November, 1996.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 1 अप्रैल, 1998

का.आ. 827.—केन्द्रीय राजस्व बोर्ड अधिनियम, 1963 (1963 की सं. 54) की धारा 4 के उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा भारतीय सीमा शुल्क एवं केन्द्रीय उत्पाद शुल्क सेवा के एक अधिकारी श्री पी.एन. मल्होत्रा को 1 अप्रैल, 1998 (पूर्वाह्न) से केन्द्रीय उत्पाद शुल्क एवं सीमा शुल्क बोर्ड के सचिव के रूप में नियुक्त करती है।

[फा.सं. ए. 19011/8/98 प्रशा.-I]

प्यारे लाल, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 1st April, 1998

S.O. 827.—In exercise of the power conferred by sub-section (1) of Section 4 of the Central Board of Revenue

Act, 1963 (No. 54 of 1963), the Central Government hereby appoints Shri P. N. Malhotra, an officer of the Indian Customs & Central Excise Service, as Member of the Central Board of Excise & Customs with effect from 1st April, 1998(FN).

[F. No. A-19011/8/98-Ad. I]

PYARE LAL, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 7 अप्रैल, 1998

का.आ.—828—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के खंड 3 के उपखंड (1) और खंड 8 के उपखंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1970 की धारा 9 की उपधारा 3 के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्री के. चेरियन वर्गीज वर्तमान महाप्रबंधक, इंडियन बैंक को उनके कार्यभार ग्रहण करने की तारीख से पांच वर्ष की अवधि के लिए सेंट्रल बैंक आफ इंडिया के पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में पदनामित) के रूप में नियुक्त करती है।

[एफ. सं. 9/18/96-बी. ओ. I]

एम. एस. सीतारामन, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 7th April, 1998

S.O. 828.—In exercise of the powers conferred by clause (a) of sub-section 3 of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central

Government after consultation with the Reserve Bank of India, hereby appoints Shri K. Cherian Varghese, presently General Manager Indian Bank as a wholetime director (designated as the Executive Director) of Central Bank of India for a period of five years from the date of his taking charge.

[F. No. 9/18/96-B.O.I].

M. S. SEETHARAMAN, Under Secy.

विदेश मंत्रालय

(कन्सुलर अनुभाग)

नई दिल्ली, 3 अप्रैल, 1998

का.आ. 829 राजनयिक कौंसली अधिकारी (अपण एवम् शुल्क) अधिनियम 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद द्वारा भारत का हुतावास ब्रुसेल्स में सहायक श्री पी.वी. वेनुगोपालन 3 अप्रैल, 1998 से सहायक कौंसली अधिकारी का कार्य करने के लिए प्राधिकृत करता है।

[सं. टी.-4330/1/98]

एन.यू. अभीराचन, अवर सचिव

(पी.वी.एस.)

MINISTRY OF EXTERNAL AFFAIRS

(Consular Section)

New Delhi, the 3rd April, 1998

S.O. 829.—In pursuance of Clause (a) of the Section 2 of the Diplomatic and Consular Officer (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri P. V. Venugopalan, Assistant in the Embassy of India, Brussels to perform the duties of Assistant Consular Officer with effect from April 3, 1998.

[No. T-4330/1/98]

N. U. AVIRACHEN, Under Secy. (Cons.)

खाद्य और उपभोक्ता मामले मंत्रालय

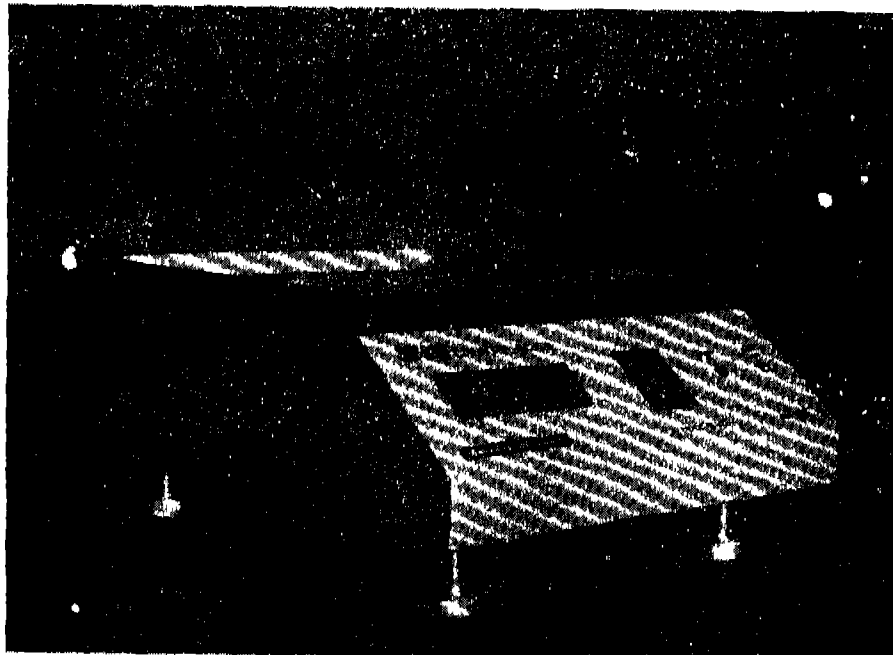
(उपभोक्ता मामले विभाग)

नई दिल्ली, 6 अप्रैल, 1998

का. आ. 830.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उक्त प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखिए) बाट और माप मानक अभिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की जाँच है कि वह लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा;

अतः केन्द्रीय सरकार, उक्त अभिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए (मध्य) यथार्थता वर्ग III की एस एम टी मिर्रीज के "मेथा" ब्रांड नाम वाले स्वतः संचालित गैर-स्वचालित इलेक्ट्रॉनिक टोलन और तोलन मशीन के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मेसर्स सुमेधा माइक्रोवेयर, 3/5 आया पतला आफ स. 2 प्रथम मंजिल, ब्रुल टेम्पल राड, बेंगलूर 560018 द्वारा किया गया है और जिसे अनुमोदन चिह्न आईएनडी/09/97/12 प्रस्तुत किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

माडल (आकृति देखिए) एक मध्यम यथार्थता (यथार्थता वर्ग III) का गतिन उपकरण है जिसकी अधिकतम क्षमता 20 किलोग्राम और न्यूनतम क्षमता 200 ग्राम है। संस्थापन मापमान अन्तर (ई) 10 ग्राम है। इसमें एक टेयर युक्ति है जिसका व्यक्तिगत प्रतिभारण टेयर प्रभाव 100 प्रतिशत है। भारग्राही वर्गाकार सेक्शन का है जिसके आकार 300 × 300 मि.मी. है। प्रकाश उत्सर्जन डायोड संप्रदर्श मोल परिणाम उपदर्शित करता है। यह उपकरण 230 वोल्ट, 50 हर्ट्ज के प्रत्यावर्ती धारा विद्युत्पदाय पर प्रचलित होता है।



(आकृति)

आगे, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन के अनुसार और उसी सामग्री से, जिससे अनुमोदित माडल का विनिर्माण किया गया है विनिर्मित 1 कि. ग्रा./0.2 ग्रा., 2 कि.ग्रा./0.5 ग्रा.; 5 कि.ग्रा./1 ग्रा., 6 कि.ग्रा. /2 ग्रा., 10 कि.ग्रा., 5 कि.ग्रा./ और 30 कि.ग्रा./10 ग्राम, की अधिकतम क्षमता वाले समरूप मेक, यथार्थता और उसी मिर्रीज के कार्यकरण वाले तोलन उपकरण भी हैं।

[फा. सं. डब्ल्यू एम-21(13)/95]

राजीव श्रीवास्तव, अपर सचिव

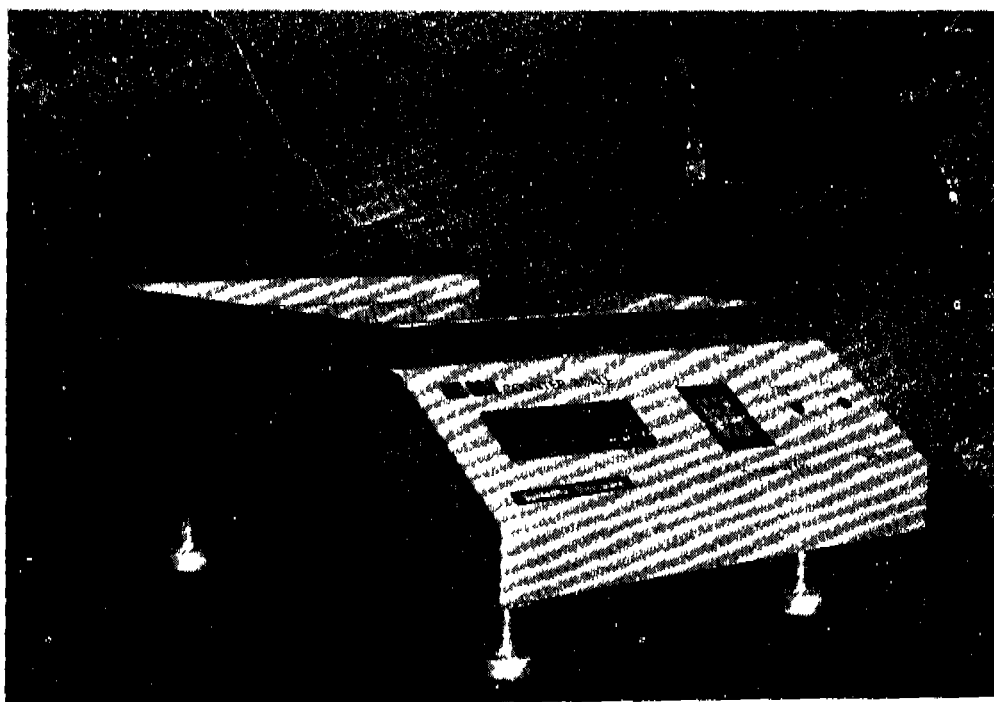
MINISTRY OF FOOD AND CONSUMER AFFAIRS**(Department of Consumer Affairs)**

New Delhi, the 6th April, 1998

S. O. 830.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval, of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of Approval of the Model of the self-indicating non-automatic electronic table top weighing machine of class III (medium) accuracy of SMT series with brand name "MEDHA" (hereinafter referred to as the Model) manufactured by M/s Sumedha Microware, 3/5, Arya Plaza, Off No. 2, 1st Floor, Bull Temple Road, Bangalore-560018, and which is assigned the approval mark IND/09/97/12;

The Model is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 30 kg and minimum capacity of 200g. The verification scale interval (e) is 10 g. It has a tare device with a 100 percent subtractive retained tare effect. The load receptor is of square section of size 300 x 300 millimetre. The LED display indicates the weighing result. The instrument operates on 230 volts, 50 Hertz alternating current power supply;



(Figure)

Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity of 1kg/0.2g, 2kg/0.5g, 5kg/1g, 6kg/2g, 10kg/2g and 30kg/10g manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

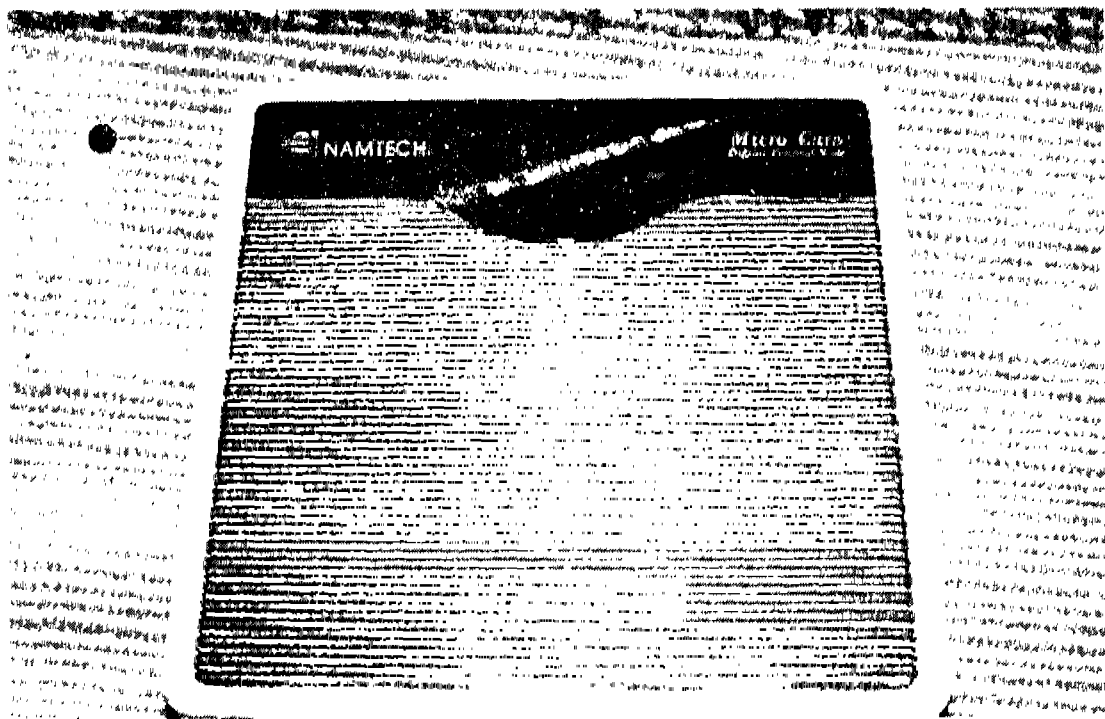
[F. No. WM 21(13)/95]

RAJIV SRIVASTAVA, Addl. Secy.

नई दिल्ली, 6 अप्रैल, 1998

का. अ. 831.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट (नीचे आकृति देखिए) पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल वाट और माप मानक अधिनियम, 1976 (1976 का 60) और वाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस वाट की संभावना है कि अधिकृत उपयोग की अवधि में यथार्थता बनाए रखेगा और परिवर्तित दशाओं में उपयुक्त सेवा देता रहेगा :

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, वर्ग III शुद्धता (साधारण शुद्धता) वाली "पी एम 2000" श्रृंखला की अंकीय संप्रदर्शन वाली स्वसूची, गैर-स्वचालित इलेक्ट्रॉनिक निजी मशीन के माडल का जिसका ब्रांड नाम "माइक्रो केअर है" (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स नामटेक सिस्टम्स लि., 85 इलेक्ट्रॉनिक नगर जंगलौर-561229 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई.एन. डी./09/97/60 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



(आकृति)

यह माडल (आकृति देखिए) साधारण शुद्धता (शुद्धता वर्ग III) दोहरी रेंज तुला यंत्र है, जिसकी अधिकतम क्षमता 130 किलोग्राम और न्यूनतम क्षमता 5 किलोग्राम है। सत्यापन मापमान अन्तर (ई) 99.5 किलोग्राम तक 500 ग्राम और 100 किलोग्राम से 130 किलोग्राम तक की रेंज के लिए 1 किलोग्राम है उद्धारप्राप्ती वर्गाकार है जिसकी भुजाएं 250 मि.मी. हैं। द्रव्य प्रकाश डायोड तुलन परिणाम उपदर्शित करता है। यंत्र 6 वोल्ट पर प्रत्यक्ष धारा विद्युत प्रदाय पर कार्य करता है।

[फा. सं. डब्ल्यू. एम.-21(43)/96]

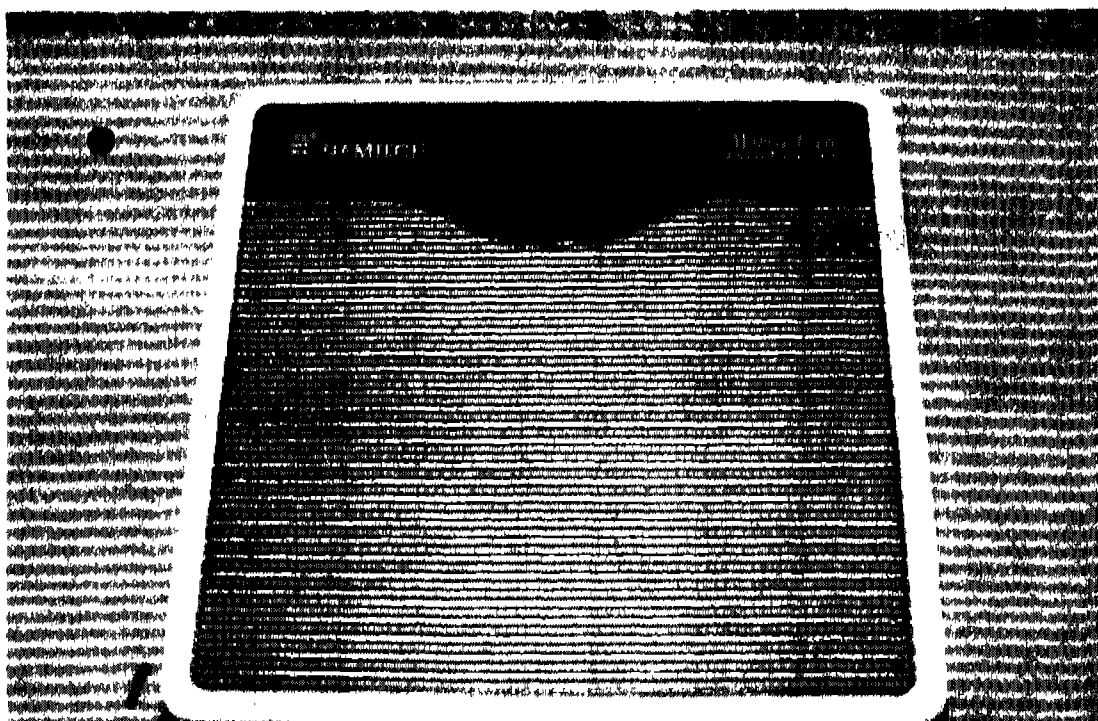
राजीव श्रीवास्तव, अपर सचिव

New Delhi, the 6th April, 1998

S.O. 831.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic electronic personal weighing machine and digital display of type "PS-2000" series of class III accuracy (ordinary accuracy) and with brand name "MICRO CARE" (hereinafter referred to as the Model) manufactured by M/s Namtech System Limited, 85, Electronic City, Bangalore-561229, and which is assigned the approval mark IND/09/97/60 ;

The Model (see figure) is a ordinary accuracy (accuracy class III) dual range weighing instrument with a maximum capacity of 130 kg and minimum capacity of 5 kg. The verification scale interval (e) is 500 g. upto 99.5 kg. and 1 kg. for the range 100 kg. to 130 kg. The load receptor is of square section of size 250 millimetre. The Light Emitting Diodes indicate the weighing result. The instrument operates on 6 Volts Direct current supply.



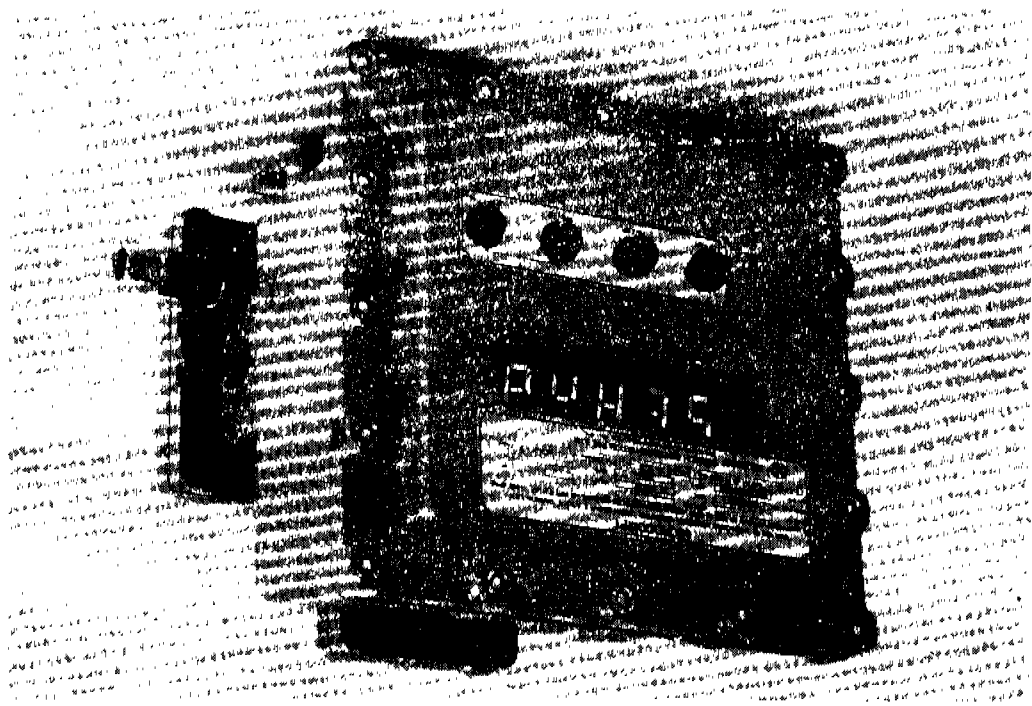
(Figure)

[File. No. WM-21(43)/96]
RAJIV SRIVASTAVA, Addl. Secy.

बैठे दिल्ली, 6 अप्रैल, 1998

का. आ. 832.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखिए) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप (मानक माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और यह संभावना है कि उक्त माडल अविगत उपयोग की अवधि में भी यथार्थता बनाए रखेगा और परिवर्तित दशाओं में उपयुक्त सेवा देता रहेगा :

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, माइक्रो क्राम्पट बैच नियंत्रक मशीन जो उसमें परिदत्त द्रव्य को अभिलिखित करने के लिए प्रवाह मीटर के साथ प्रयोग की जाती है, के माडल का जिसका ब्रांड नाम “माइक्रो क्राम्पट” शृंखला है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मैसर्स तारु तलवानी इंजीनियरिंग प्रा. लि. 28/4 बी, खरडी, आक नगर मार्ग, पुणे-411014 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई. एन. डी./09/97/48 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।



(आकृति)

यह माडल (आकृति देखिए) बैच नियंत्रक है जो उससे परिदत्त द्रव्य को अभिलिखित करने के लिए द्रव्य प्रवाह मीटर के साथ प्रयोग किया जाता है जिसके प्रवाह का रेंज मिनट 150 लिटर है। प्रवाहित द्रव्य के आनुपातिक विद्युत् स्पंद प्रवाह मीटर द्वारा जनित किये जाते हैं और माइक्रो क्राम्पट को भेजे जाते हैं। माइक्रो क्राम्पट स्पंद की गणना करता है और तदनुसार प्रवाह मीटर से प्रवाहित द्रव्य की मात्रा संप्रदर्शित करता है। यंत्र में न्यूनतम गणना 0.1 लिटर की है। और उसे अभिलिखित मात्रा ± 5 प्रतिशत पर समायोजित किया जा सकता है। यह समायोजन मात्रा शुद्धता कारक (के कारक के रूप में ज्ञात) के प्रवेश से प्राप्त किया जाता है जो “डिप” स्वीच द्वारा चालू किए जाने वाले पुश बटन से किया जाता है। मेट करने के पश्चात् डिप स्वीच को सील कर दिया जाता है। यंत्र का साइज 76 मि.मी. है। यह 30 डिग्री से 40 डिग्री से. की ताप सीमा में 0.130 ए.एम.पी. विद्युत् द्र पर और 220 वोल्ट प्रत्यावर्ती धारा पर कार्य करता है।

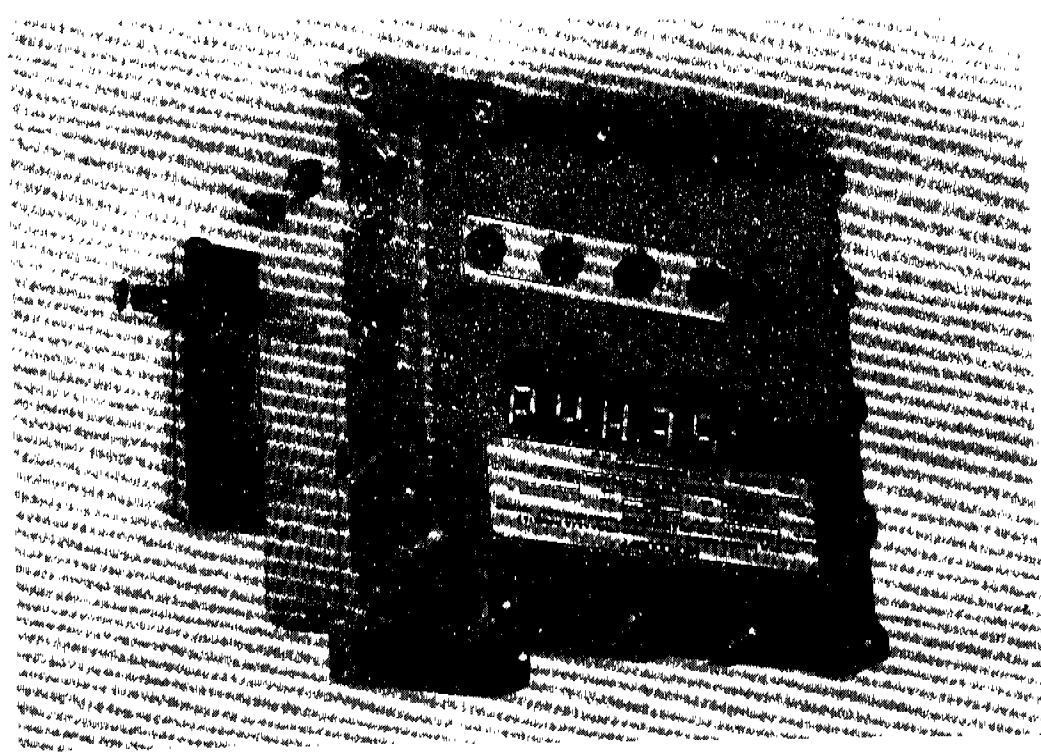
[फा. सं. डब्ल्यू. एम. 21(45)/95]

राजीव श्रीवास्तव, अपर सचिव

New Delhi, the 6th April, 1998

S.O. 832.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the micro compt batch controller machine to be used with a flowmeter to record liquid delivered through it with brand name "Microcompt" series, (hereinafter referred to as the model) manufactured by M/s Taru Lalvani Engineering Pvt. Ltd., 28/4B, Kharadi, Off Nagar Road, Pune-411 014, and which is assigned the approval mark IND/09/97/48 ;



(Figure)

The Model (see figure) is an batch controller used alongwith a liquid flowmeter to record the liquid delivered through the flowmeter having flow range of 150 litres per minute. Electrical pulses proportional to the liquid flowing are generated by the flowmeter and are sent to the Microcompt. Microcompt counts the pulses and accordingly displays volume of the liquid flown through the flowmeter. The instrument has a least count of 0.1 litre and can be adjusted to $\pm 5\%$ of the volume recorded. The adjustment is achieved by entering the volume correction factor (known as K factor) through the push buttons actuated by a 'dip' switch. The dip switch is sealed after setting. The size of the instrument is 76 millimetre. It operates in the temperature limit on 30°C to 40°C and power rating on 0.130 amp at 220 v, alternate current.

[F. No. WM 21(45)/95]

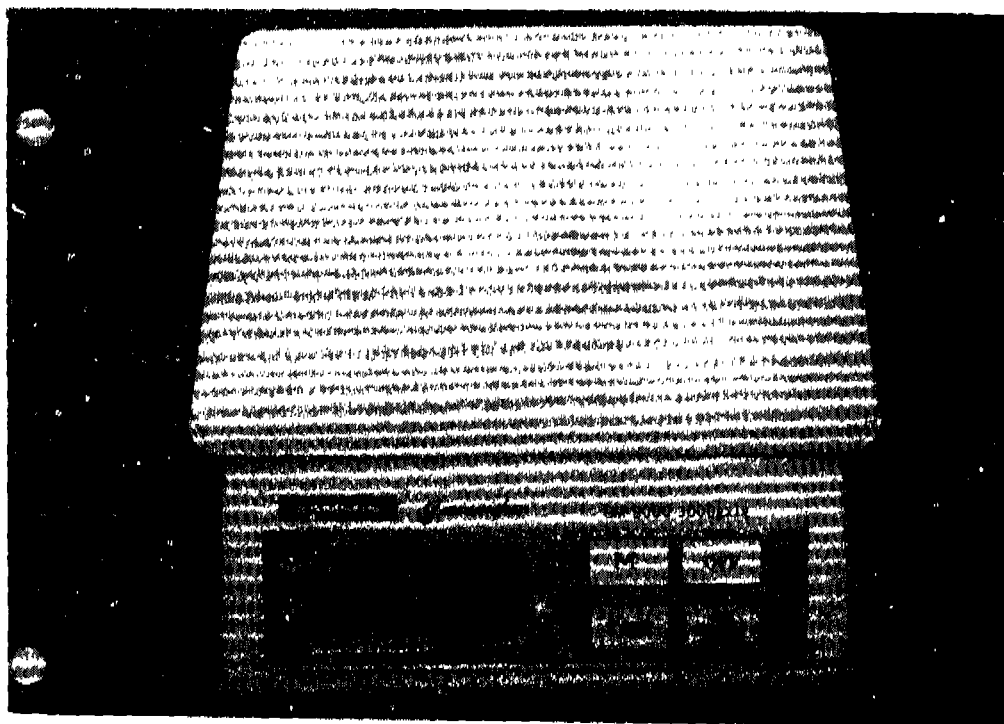
RAJIV SRIVASTAVA, Addl. Secy.

नई दिल्ली, 6 अप्रैल, 1998

का. आ. 833.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखिए) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि वह लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा :

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, (मध्यम) यथार्थता वर्ग-III की एस एस सी सिरीज के "ममसन इलेक्ट्रोनिक्स व्हेइंग स्कैल्स" ब्रांड नाम वाले स्वतः सूचक गैर स्वचालित इलेक्ट्रॉनिक टेबल टॉप तोलन मशीन के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स माडर्न बिजनेस इक्विपमेंट्स एण्ड सर्विसेस प्रा. लि. ई.-19 फेज II मोहली (पंजाब) द्वारा किया गया है और जिसे अनुमोदन चिह्न आई. एन. डी./09/97/14 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

माडल (आकृति देखिए) एक उच्च यथार्थता (यथार्थता वर्ग III) का तोलन उपकरण है जिसकी अधिकतम क्षमता 3 किलो ग्राम और न्यूनतम क्षमता 20 ग्राम है। सत्यापन मापमान अन्तर (ई) 1 मि.ग्रा. है। इसमें एक टेयर युक्ति है जिसका व्यकलनात्मक प्रतिधारण टेयर प्रभाव 100 प्रतिशत है। भारग्राही प्रकाश उत्सर्जन डायोड संप्रदर्श तोल परिणाम उपदर्शित करता है। यह उपकरण 230 वोल्ट, 50 हर्ट्ज के प्रत्यावर्ती धारा विद्युत प्रदाय पर 6 बी. 300 एम. ए. के एसी/डी सी अडोप्टर द्वारा चालित या चार यू एम-2 बैटरियों द्वारा प्रचलित होता है।



(आकृति)

आगे, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन के अनुसार और उसी सामग्री से, जिससे अनुमोदित माडल का विनिर्माण किया गया है विनिर्मित 100 ग्रा./0.01 ग्रा., 200 ग्रा./0.2 ग्रा., 300 ग्रा./0.1 ग्रा., 500 ग्रा./0.05 ग्रा. या 0.5 ग्रा., 600 ग्रा./0.2 ग्रा., 1 कि.ग्रा./0.1 ग्रा., 1.2 कि.ग्रा./0.2 ग्रा., 1.5 कि.ग्रा./0.5 ग्रा., 2 कि.ग्रा./0.2 ग्रा., 3 कि.ग्रा./0.5 ग्रा., 6 कि.ग्रा./1 ग्रा., 12 कि.ग्रा./2 ग्रा., 15 कि.ग्रा./2 ग्रा. या 5 ग्रा. और 30 कि.ग्रा./5 ग्रा. की अधिकतम क्षमता वाले समरूप मेक, यथार्थता और उसी सिरीज के कार्यकरण वाले तोलन उपकरण भी है।

[फा. सं. डब्ल्यू एम-21(21)/96]

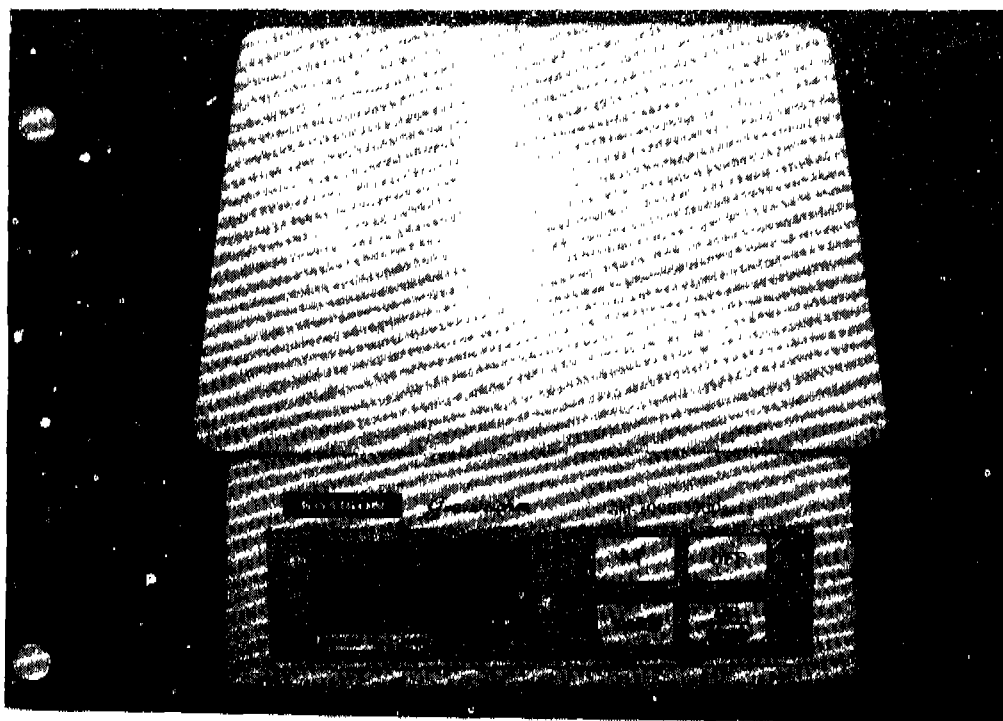
राजीव श्रीवास्तव, अपर सचिव

New Delhi, the 6th April, 1998

S.O. 833.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic electronic table top weighing machine of class III (medium) accuracy of SSC series with brand name "Samson Electronics Weighing Scales" (hereinafter referred to as the Model) manufactured by M/s Modern Business Equipments and Services Pvt. Ltd., E-19, Phase-VII, Mohali (Punjab), and which is assigned the approval mark IND/09/97/14;

The Model is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 3kg and minimum capacity of 20g. The verification scale interval (e) is 1g. It has a tare device with a 100 percent subtractive retained tare effect. The load receptor is of rectangular section of size 132 x 160 millimetre. The LCD display indicates the weighing result. The instrument operates on AC/DC adaptor of 6V, 300mA operated by 230 volts, 50 Hertz alternate current power supply or four UM-2 batteries;



(Figure)

Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity of 100g./0.1g, 200g./0.02g, 300g./0.1g, 500g./0.05g or 0.5g., 600g./0.2g, 1kg/0.1g., 1.2kg/0.2g, 1.5kg/0.5g, 2kg/0.2g, 3kg/0.5 g, 6kg/1g, 12kg/2g, 15kg/2g or 5g and 30kg/5g manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM 21(21)/96]

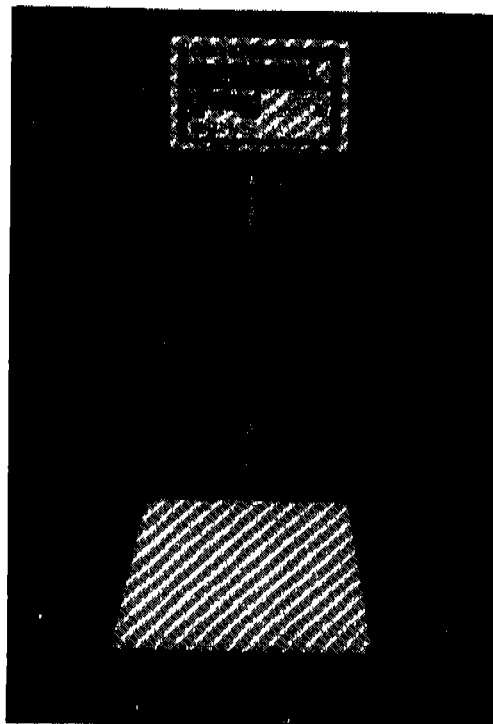
RAJIV SRIVASTAVA, Addl. Secy.

नई दिल्ली, 6 अप्रैल, 1998

का. आ. 834.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखिए) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए (मध्यम) यथार्थता वर्ग III के एस एन बी के सिरिज के "समसन इलेक्ट्रॉनिक्स वैडिंग स्कैल्स" ब्रांड नाम वाले स्वतः सूचक गैर-स्वचालित इलेक्ट्रॉनिक प्लेटफार्म तोलन मशीन के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स मार्डन बिजनेस इक्विपमेंट्स एण्ड सर्विसेस प्रा. लि. ई.-19 फेज बी-11, मोहली (पंजाब) द्वारा किया गया है और जिसे अनुमोदन चिह्न आई. एन. डी./09/97/13 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

माडल (आकृति देखिए) एक मध्यम यथार्थता (यथार्थता वर्ग III) का तोलन उपकरण है जिसकी अधिकतम क्षमता 60 किलोग्राम और न्यूनतम क्षमता 200 ग्राम है। सत्यापन मापमान अन्तर (ई) 10 ग्रा. है। इसमें एक टेयर युक्ति है जिसका ज्वकलनात्मक प्रतिधारण टेयर प्रभाव 100 प्रतिशत है। भारग्राही आयताकार सेक्शन का है जिसके आकार 330 × 450 मि.मी. है। प्रकाश उत्सर्जन डायोड संप्रदर्श तोल परिणाम उपदर्शित करता है। यह उपकरण 230 बोल्ट, 50 हर्टज के प्रत्यावर्ती धारा विद्युत प्रदाय पर 6 वी. 300 एम. ए. के ए सी/डी सी अडोप्टर द्वारा चालित या चार यू एम-2 बैटरियों द्वारा प्रचालित होता है।



(आकृति)

आगे, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन के अनुसार और उसी सामग्री से, जिससे अनुमोदित माडल का विनिर्माण किया गया है विनिर्मित 30 कि.ग्रा./5 ग्रा., 150 कि.ग्रा./20 ग्रा., 300 कि.ग्रा./50 ग्रा., 500 कि.ग्रा./100 ग्रा. और 1000 कि.ग्रा./200 ग्राम की अधिकतम क्षमता वाले समरूप मेक, यथार्थता और उसी सिरिज के कार्यकरण वाले तोलन उपकरण भी है।

[फा. सं. डब्ल्यू एम-21(21)/96]

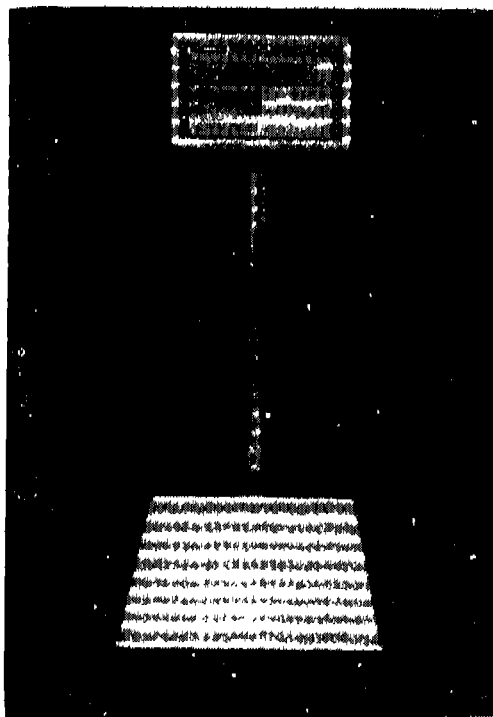
राजीव श्रीवास्तव, अपर सचिव

New Delhi, the 6th April, 1998

S.O. 834.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic electronic platform weighing machine of class III (medium) accuracy of SNBK series with brand name "Samson Electronics Weighing Scales" (hereinafter referred to as the Model) manufactured by M/s Modern Business Equipments and Services Pvt. Ltd., E-19, Phase VII, Mohali (Punjab), and which is assigned the approval mark IND/09/97/13;

The Model is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 60kg and minimum capacity of 200g. The verification scale interval (e) is 10g. It has a tare device with a 100 percent subtractive retained tare effect. The load receptor is of rectangular section of size 330 × 450 milimetre. The LCD display indicates the weighing result. The instrument operates on AC/DC adopter of 6V, 300 mA operated by 230 volts, 50 Hertz alternate current power supply or four UM-2 batteries;



(Figure)

Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity of 30kg/5g, 150kg/20g, 300kg/50g, 500kg/100g and 1000kg/200g manufactured by the same manufacturer in accordance with the same principle, design and with the same material with which, the approval Model has been manufactured.

[File No. WM 21 (21)/96]

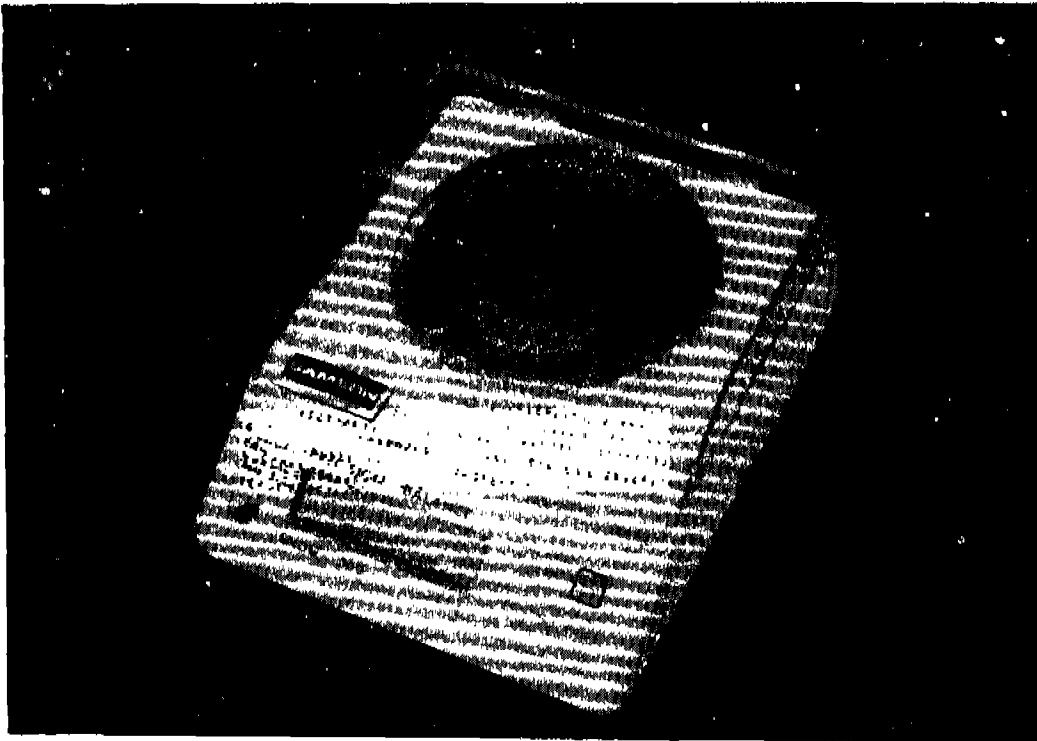
RAJIV SRIVASTAVA, Addl. Secy.

नई दिल्ली, 6 अप्रैल, 1998

का.आ. 835.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखिए) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि वह लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए (उच्च) यथार्थता वर्ग-II की एस सिरीज के “समसन इलेक्ट्रॉनिक्स व्हेइंग स्केल्स” ब्रांड नाम वाले स्वतः संचालित इलेक्ट्रॉनिक्स टेबल टॉप तोलन मशीन के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स माडर्न बिजनेस इव्युपमेंट्स एण्ड सर्विसेस प्रा. लि. ई. 19 फेज II मोहली (पंजाब) द्वारा किया गया है और जिसे अनुमोदन चिन्ह आई.एन.डी./09/97/15 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

माडल (आकृति देखिए) एक उच्च (यथार्थता वर्ग II) तोलन उपकरण है जिसकी अधिकतम क्षमता 300 ग्राम और न्यूनतम क्षमता 0.2 ग्राम है। सत्यापन मापमान अन्तर (ई) 10 मि.ग्रा. है। इसमें एक टेयर युक्ति है जिसका व्यकलनात्मक प्रतिधारण टेयर प्रभाव 100 प्रतिशत है। भारग्राही वृत्ताकार क्रास सैक्शन का है जिसका व्यास 125 मि.मी. है। प्रकाश उत्सर्जन डायोड संप्रदर्श तोल परिणाम उपदर्शित करता है। यह उपकरण 230 वोल्ट, 50 हर्टज के प्रत्यावर्ती धारा विद्युत प्रदाय पर 6 वी. 300 एम ए के एसी/डी सी अडॉप्टर द्वारा चालित या चार यू एम-2 बैटरियों द्वारा प्रचालित होता है।



(आकृति)

आगे, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धांत डिजाइन के अनुसार और उसी सामग्री से, जिससे अनुमोदित माडल का विनिर्माण किया गया है विनिर्मित 600 ग्रा./0.01 ग्राम., 1100 ग्रा./0.1 ग्रा., 2200 ग्रा./0.2 ग्रा., 5500 ग्रा./0.5 ग्रा., 11 कि.ग्रा./1 ग्रा. और 22 कि.ग्रा./2 ग्रा. की अधिकतम क्षमता वाले समरूप मेक, यथार्थता और उसी सिरीज के कार्यकरण वाले तोलन उपकरण भी हैं।

[फा.सं. डब्ल्यू एम-21 (21)/96]

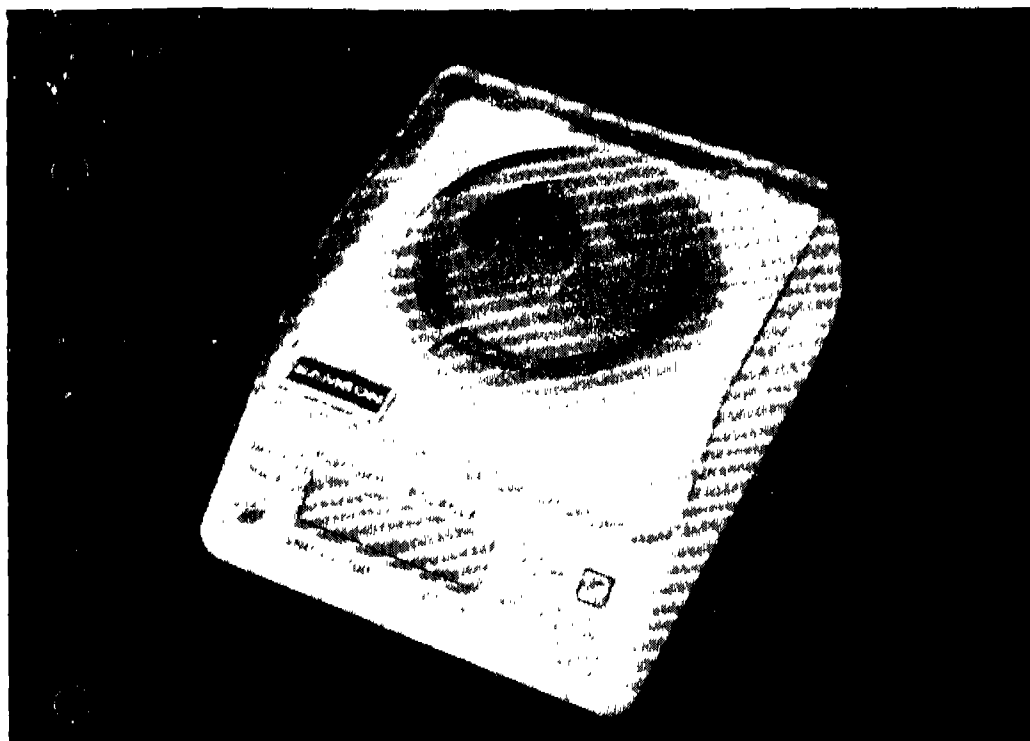
राजीव श्रीवास्तव, अपर मन्त्रि

New Delhi, the 6th April, 1998

S.O. 835.—Whereas the Central Government after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic electronic table top weighing machine of class II (high) accuracy of S series with brand name "Samson Electronics Weighing Scales" (hereinafter referred to as the Model) manufactured by M/s Modern Business Equipments and Services Pvt. Ltd., E-19, Phase VII, Mohali (Punjab), and which is assigned the approval mark IND/09/97/15;

The Model is a high accuracy (accuracy class II) weighing instruments with a maximum capacity of 300g and minimum capacity of 0.2g. The verification scale interval (e) is 10mg. It has a tare device with a 100 percent subtractive retained tare effect. The load receptor is of circular cross section of diameter 125 millimetre. The LCD display indicates the weighing result. The instrument operates on AC/DC adopter of 6V, 300mA operated by 230 volts, 50 Hertz alternate current power supply or four UM-2 batteries:



(Figure)

Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity of 600g/0.01g, 1100g/0.1g, 2200g/0.2g, 5500g/0.5g, 11kg/1g and 22kg/2g manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[File No. WM 21(21)/96]
RAJIV SRIVASTAVA, Addl. Secy.

नई दिल्ली, 6 अप्रैल, 1998

का. आ. 836.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा इसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक माडलों का अनुमोदन (नियम, 1987 के उपबंधों के अनुरूप है और यह संभावना है कि उक्त माडल अतिरिक्त उपयोग की अवधि में भी यथार्थता बनाए रखेगा और परिवर्तित दशाओं में उपयुक्त सेवा देता रहेगा ;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, वर्ग 3 शुद्धता की जी आर श्रृंखला टाइप की स्वसूची गैर-स्वचालित इलेक्ट्रॉनिक प्लेटफार्म वाले तुलना यंत्र के माडल का जिसका ब्रांड नाम "ग्रेस" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मैसर्स ग्रेस प्रोडक्ट्स, ए-54, जी आई डी सी, इलेक्ट्रॉनिक इस्टेट, गांधीनगर - 382044 (गुजरात) द्वारा किया गया है और जिसे अनुमोदन चिह्न आई०डी०/09/97/47 समनुदेशित किया गया है, अनुमोदन प्रमाण पत्र प्रकाशित करती है।



(आकृति)

यह माडल (आकृति देखें) (मध्यम शुद्धता) शुद्धता वर्ग 3 का तुलना उपकरण है, जिसकी अधिकतम क्षमता 100 कि०ग्रा० और न्यूनतम क्षमता 400 ग्रा० है। सत्यापन मापमान अन्तराल 20 ग्रा० है। इसमें एक आधेयतुलन युक्ति है जिसका शतप्रतिशत व्यकलनात्मक धारित प्रभाव है। उद्भार ग्राही वर्गाकार है जिसकी भुजाएं 600 मिली मीटर हैं। द्रव्य स्फटिक संप्रदर्शन प्रकाश तुलना परिणाम उपदर्शित करता है। यंत्र 230 वोल्ट और 50 हर्ट्ज आवृत्ति पर प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।

इसके अतिरिक्त केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, घोषित करती है कि उक्त माडल के अनुमोदन प्रमाण पत्र के अन्तर्गत इसी विनिर्माता द्वारा उसी सिद्धान्त डिजाइन के अनुसार और उसी सामग्री से जिससे अनुमोदित माडल का विनिर्माण किया गया है, विनिर्मित इसी श्रृंखला के समरूप मेक, यथार्थता और निष्पादन वाले 50 कि० ग्रा०/10ग्रा०, 150 कि० ग्रा०/ 50ग्रा०, 200कि०ग्रा०/50ग्रा०, 250 कि०ग्रा०/50 ग्रा०, 300 कि०ग्रा०/100ग्रा०, 350 कि०ग्रा०/100ग्रा०, 400 कि०ग्रा०/100 ग्रा०, 450 कि०ग्रा०/100 ग्रा०, 500 कि०ग्रा०./100 ग्रा., 4 टन/200 ग्रा., 1.5 टन/500 ग्रा० और 2 टन/500 ग्रा० की अधिकतम क्षमता वाले तुलना उपकरण भी हैं।

[फा०सं० डब्ल्यू०एम० 21(37)/96)]

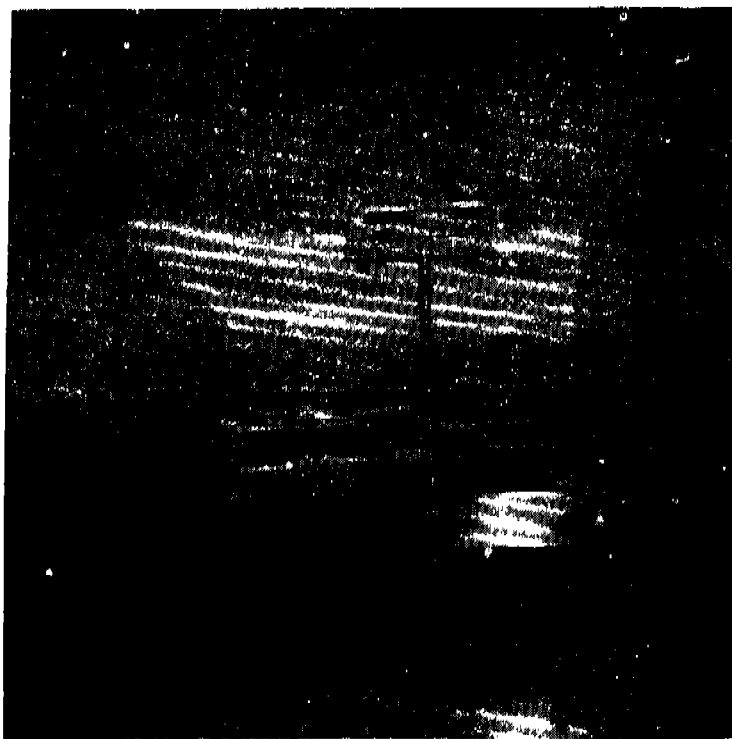
राजीव श्रीवास्तव, अपर सचिव

New Delhi, the 6th April, 1998

S. O. 836.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic electronic platform weighing machine of type "GR" series of class III accuracy (Medium accuracy) and with brand name "GRACE" (hereinafter referred to as the Model) manufactured by M/s Grace Products, A-54, GIDC, Electronics Estate State, Gandhinagar-382044 Gujarat, and which is assigned the approval mark IND/09/97/47;

The Model (see figure given below) is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 100kg and minimum capacity of 400g. The verification scale interval (e) is 20g. It has a tare device with a 100 percent subtractive retained tare effect. The load receptor is of square section of side 600 millimetre. The LED display indicates the weighing result. The instrument operates on 230 volts and frequency 50 Hertz, alternate current, power supply.



(Figure)

Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity of 50kg, 10g, 150kg./50g, 200kg./50g, 25kg/50g, 300kg/100g, 350kg./100g, 400kg./100g, 450kg./100g, 500kg, 1 t /200g, 1.5t/500g and 2t/500g manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which the approved Model has been manufactured.

[File No WM 21 (37)/96]

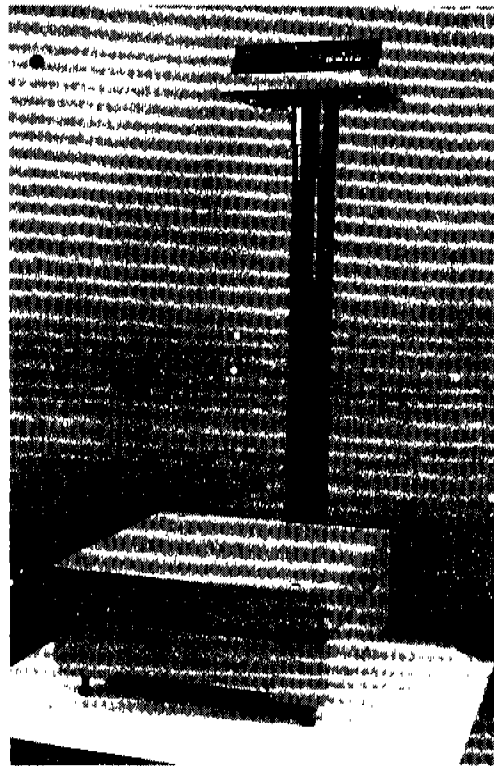
RAJIV SRIVASTAVA, Addl. Secy.

नई दिल्ली, 6 अप्रैल, 1998

का. आ. 837.—केन्द्रीय सरकार का विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखिए) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडल का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि वह लगातार प्रयोग की अवधि में यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यथार्थता (मध्यम यथार्थता) वर्ग III की "2000 पी" सिरीज टाइप के और "इल्डर पात 2000 पी" स्ततः सूचक और स्वचालित इलेक्ट्रॉनिक प्लेट फार्म तोलन मशीन के माडल का (जिसे इसमें इसके पश्चात् माडल कहा गया है) जिसका विनिर्माण मैसर्स हल्डर इण्डस्ट्रियल इंस्ट्रूमेंट्स प्राइवेट लिमिटेड, 11 बी, धनराज महल, अपोलो बंडर, मुम्बई-400039 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई.एस.डी./09/97/73 समनुदेशित किया गया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

माडल (आकृति देखिए) एक मध्यम यथार्थता (यथार्थता वर्ग III) का तोलन उपकरण है जिसकी अधिकतम क्षमता 100 किलोग्राम और न्यूनतम क्षमता 400 ग्राम है। सत्यापन मापमान अन्तर (ई) 20 ग्राम है। इसमें एक टेयर युक्ति है जिसका व्यकलात्मक प्रतिधारण टेयर प्रभात 100 प्रतिशत है। भारग्राही वर्गाकार सैक्सन का है जिसकी भुजा 600×600 मि.मी. है। प्रकाश उत्सर्जन डायेड संप्रदर्श तोल परिणाम उपदर्शित करता है। यह उपकरण 230 वोल्ट, और 50 हर्टज आवृत्ति के प्रत्यावर्ती धारा विद्युत प्रदाय पर प्रचलित होता है।



(आकृति)

आगे, केन्द्रीय सरकार, उक्त धारा की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के अनुमोदन के इस प्रमाण पत्र के अंतर्गत उसी विनिर्माता द्वारा उसी सिद्धान्त के अनुसार और उसी सामग्री से, जिससे अनुमोदित माडल का विनिर्माण किया गया है विनिर्मित 10 कि.ग्रा./1 ग्राम या 2 ग्राम, 20 कि.ग्रा./2 ग्राम या 5 ग्राम, 30 कि.ग्रा./5 ग्राम, 50 कि.ग्रा./5 ग्राम या 10 ग्राम, 100 कि.ग्रा./10 ग्राम, 200 कि.ग्रा./20 ग्राम, 300 कि.ग्रा./50 ग्राम, 500 कि.ग्रा./100 ग्राम, 1000 कि.ग्रा./200 ग्राम और 2000 कि.ग्रा./500 ग्राम की अधिकतम क्षमता वाले समरूप मेक, यथार्थता और उसी सिरीज के कार्यकरण वाले तोलन उपकरण भी हैं।

[फा. सं. डब्ल्यू एम - 21(58)/96]

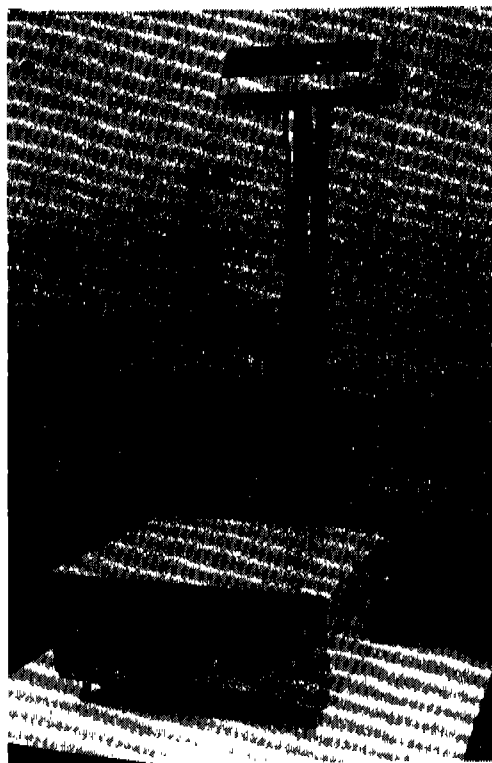
राजीव श्रीवास्तव, अपर सचिव

New Delhi, the 6th April, 1998

S. O. 837.—Whereas the Central Government after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain the accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating non-automatic electronic platform weighing machine of type “2000P” series of class III accuracy (Medium accuracy) and with brand name “ELDERPAN2000P” (hereinafter referred to as the Model) manufactured by M/s Elder Industrial Instruments Private Limited, 11-B, Dhanraj Mahal, Apollo Bunder, Mumbai-400 039 and which is assigned the approval mark IND/09/97/73;

The Model (see the figure) is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 100kg and minimum capacity of 400g. The verification scale interval (e) is 20g. It has a tare device with a 100 percent subtractive retained tare effect. The load receptor is of square section of side 600×600 millimetre. The Light Emitting Diode display indicates the weighing result. The instrument operates on 230 volts and frequency 50 Hertz, alternate current power supply.



(Figure)

Further, in exercise of the powers conferred by sub-section (12) of the said section, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum capacity of 10kg/1g or 2g, 20kg/2g or 5g, 30kg/5g, 50kg/5g or 10g, 100kg/10g, 200kg/20g, 300kg/50, 500kg/100g, 1000kg/200g and 2000kg/500g manufactured by the same manufacture in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[File No. WM 21 (58)/96]

RAJIV SRIVASTAVA, Addl. Secy.

श्रम मंत्रालय

नई दिल्ली, 1 अप्रैल, 1998

का.आ. 838—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण चर्चे के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-98 को प्राप्त हुआ था।

[सं. एल.-12012/77/94—आई.आर.बी-II]

सनातन, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 1st April, 1998

S.O. 838.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Allahabad Bank and their workman, which was received by the Central Government on 31-3-98.

[No. L-12012/77/94-IR(B.II)]

SANATAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU, CHENNAI

Thursday, the 19th day of March, 1998

PRESENT:

Thiru S. Ashok Kumar, M.Sc., B.L., Industrial Tribunal.

Industrial Dispute No. 183 of 1994

(In the matter of the dispute for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947 between the workman and the management of Allahabad Bank, Madras-17).

BETWEEN

The workmen represented by:

The General Secretary,
Allahabad Bank Staff Union,
115, Angappa Naicken Street,
First Floor, Madras-600001.

AND

The General Manager,
Allahabad Bank, Regional Office,
Vairam Complex Sir Thyagaraja Road,
T. Nagar, Madras-600017.

REFERENCE:

Order No. L-12012/77/94-IR(B.II), dated 27/28-9-94,
Ministry of Labour, Government of India, New
Delhi.

This dispute coming on this day for final disposal in the presence of Thiru C. Ravichandran, advocate appearing for the Management, upon perusing the reference, claim and counter statements and other connected papers on record and the workmen being absent, this Tribunal passed the following: 1014 GI/98—4

AWARD

The reference has been made for adjudication of the following issue:

"Whether the action of the management of Allahabad Bank, Madras in denying the post of cashier-in-charge to Shri M. R. F. Joseph is justified? If not, what relief is the said workman entitled to?"

Petitioner called absent. No representation. Dismissed for default.

Dated, this 19th day of March, 1998.

S. ASHOK KUMAR, Industrial Tribunal

नई दिल्ली, 1 अप्रैल, 1998

का.आ. 839.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-98 को प्राप्त हुआ था।

[सं. एल.-12012/93/90-आई.आर.- (बी-II)]

सनातन, डेस्क अधिकारी

New Delhi, the 1st April, 1998

S.O. 839.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 31-3-98.

[No. L-12012/93/90-IR(B-II)]

SANATAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 177 of 1990

In the matter dispute between:

President, Central Bank Workers Organisation,
6, P&T Colony,
Agra Cantt,

AND

Regional Manager,
Central Bank of India,
Regional Office,
1271, Bhairo Bazar,
Belanganj,
Agra.

APPEARANCES:

Raju Prowal for the Union and B. G. Agarwal for the Management.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide Notification No. L-12012/93/80-D.II (A), dated 3-8-98,

has referred the following dispute for adjudication to this Tribunal—

Whether the action of the management of Central Bank of India in imposing the punishment of stoppage of 3 increments on Sri S. P. Symaur clerk is justified? If not, to what relief the concerned workman is entitled?

2. Although this case was reserved for giving finding on preliminary issue regarding propriety and fairness of domestic enquiry, after going through the papers including enquiry report, I am going to hold that enquiry was fairly and properly held. Further in this case punishment is less than dismissal, removal or discharge from service and in exercise of powers u/s. 11-A of I.D. Act, this Tribunal cannot go into the question of quantum of punishment, final award is being given.

3. The concerned workman Prem Behari Symaur was admittedly working as clerk at Khair Branch of the Opposite Party Central Bank of India. He was issued a chargesheet dated 13-12-86, which runs as under—

1. On 5-11-86, when he was working as officiating Chief Cashier he deliberately refused to make payment of vouchers and withdrawals entered at Serial No. 19 to 27 in the token book. The vouchers/withdrawals were duly passed by an officer and tokens were issued there against during normal business hours.
2. He wilfully disobeyed the instructions of Branch Manager for making payments of the vouchers/withdrawals which were lying with him for payment. He refused in writing to comply with the instructions of branch manager and did not make the payments to the beneficiaries.
3. He altered the record of the bank by striking off withdrawal of Rs. 1600 drawn by Ram Datt Sharma. HSS Account No. 3261 from the token book. The said withdrawal was entered for payment after it was passed by an officer and token No. 869 was issued there against.
4. He closed the scroll book, cash detail book unilaterally leaving instruments/vouchers entered at Sl. Nos. 19 to 27 in the token book unpaid.
5. He did not get the cash verified by branch manager on 5-11-86 before keeping the cash in safe. He closed the cash unilaterally with his single keys and left the office at about 5.30 p.m. without finishing the day's work. He did not obtain the signatures of branch manager on scroll book and cash detail book.

One K. P. Mishra was appointed enquiry officer, he submitted his report dated 10-11-87. After issuing usual show cause notice the concerned workman was awarded punishment by way of stoppage of three future increments. Feeling aggrieved, the concerned workman has raised the instant industrial dispute.

4. In the claim statement, inter alia, fairness and propriety of domestic enquiry was question on a variety of ground. This fact was denied by the bank. Hence, following preliminary issue was framed—

Whether domestic enquiry conducted by the bank is fair and proper?

5. I have heard the parties and have gone through the record. A perusal of record would go to show that management had examined C. S. Bhasin, Branch Manager Aimal Hussain, AFO, T. C. Tiwari, clerk, Bhudeo Sharma, B.D.O., Khair, and Ram Datt Sharma one of account holder and one Munna a witness of public. Besides the management had filed Exts. M-1 to M-91 papers. The concerned workman did not adduce any evidence, hence after considering the evidence the enquiry officer in his report dated 10-11-87, found that all the five charges were proved.

6. The first contention of the authorised representative of the concerned workman is that charges are vague. I do not find any substance in this contention. A bare perusal of the chargesheet would go to show that all the details of miscon-

duct have been separately pointed out which will not leave any man of doubt about the misconduct for which the concerned workman was facing enquiry. The second contention of the concerned workman is that he was not afforded opportunity to cross-examine and adduce evidence in defence. After going through the enquiry proceedings, I am of the opinion, that the concerned workman had been adopting dilatory tactics. He has been seeking adjournments on one pretext or the other. Some times on the ground of non-availability of his defence representative. One such last opportunity was given to the concerned workman on 27-10-87, when his case was fixed for evidence of the delinquent. The concerned workman did not turn up at all. The plea that defence representative was prevented from attending the disciplinary proceedings due to unavoidable circumstances is by way of manipulation and does not inspire confidence. Similarly no good explanation has been given by the concerned workman for not giving evidence in his defence. In its absence, the enquiry officer was perfectly justified in accepting the uncontroverted evidence of the management.

7. Thus my final award is that the concerned workman was given full opportunity which he failed to avail and that finding is based on cogent evidence. Accordingly my finding on preliminary issue is that enquiry was fairly and properly held. As such the punishment was rightly awarded to the concerned workman and he is not entitled for any relief.

8. Reference is answered accordingly.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 1 अप्रैल, 1998

का.आ. 840.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबन्धन के संघर्ष नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-98 को प्राप्त हुआ था।

[सं. एन-12012/164/95-आई आर.(बी.-II)]

सनातन, डेस्क अधिकारी

New Delhi, the 1st April, 1998

S.O. 840.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Allahabad Bank and their workman, which was received by the Central Government on 31-3-98.

[No. L-12012/164/95-IR (B-II)]

SANATAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 40 of 1996

In the matter of dispute :

BETWEEN :

Assistant General Secretary,
Allahabad Bank Staff Association,
26-A, Narath Malka,
Allahabad.

AND

Regional Manager,
Allahabad Bank,
Regional Office,
Civil Lines,
Moradabad.

APPEARANCE :

Shri M. K. Verma—for the management.

Shri B. P. Saxena—for the workman.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide his notification No. L-12012/164/95-I.R. (B-2) dated 22-3-1996 has referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of Allahabad Bank, Meerut in imposing the penalty of stoppage of one further increment with cumulative effect on Sh. Y. K. Johari, Clerk-cum-Typist vide their order dated 2-5-1991 is legal and justified? If not, what relief is the said workman entitled to?”

2. The concerned workman Y. K. Johri was working as Clerk-Cum-Typist at Chandausi Branch of the opposite party Bank. He was served with charge sheet dated 23-6-89 which runs as under :—

1. On 1-12-87 in connivance with Sri P. K. Agarwal you posted a forged cheque No. 84053 in the S/B A/c No. 6406 of Sri Chattarpal and issued Token No. 71 to Sri P. K. Agarwal, the payment of Rs. 10,000/- against this Token was collected by Sri P. K. Agarwal.
2. On 2-12-87 again in connivance with Sri P. K. Agarwal you posted another forged cheque No. 84051 for Rs. 15,000 in the S/B A/c No. 6406 of Sri Chattarpal and the Token No. 65 against this cheque was issued by you to Sri P. K. Agarwal through Sri Rishi Pal, Peon cum Farrash and the payment thereof was also collected by Sri Agarwal.
3. On 30-11-87 you on the verbal advice of Sri P. K. Agarwal and without any written request from the A/c holder, posted the cheque book bearing No. 084051 to 084060 in the cheque issue register for issuance to the account holder & the same was handed over by you to Sri P. K. Agarwal without obtaining any signatures from the account holder on the cheque issue register.

The concerned workman pleaded not guilty. The Management examined S. C. Upodhya Manager Chandausi branch, Momraj, Officer Chandausi branch, Dilip Mehra, Chief Manager Credit Card. The defence did not adduced his evidence. After completing enquiry the enquiry officer Sri S. C. Pandey vide finding dated 14-3-90 held that charge No 1 was proved in part. Where as charge Nos. 2 and 3 were not proved. On the basis of this report the concerned workman has been awarded punishment by way of stoppage of one further increment with cumulative effect w.e.f. 2-5-91.

3. The concerned workman being dissatisfied has raised the instant Industrial Dispute. As interalia alleged that enquiry was not fairly and properly held. On the other hand the Bank has maintained that enquiry was fairly and properly held.

4. On the pleadings of the parties a preliminary issue regarding fairness and propriety of domestic enquiry was framed. This tribunal vide finding dated 27-10-97 has held that enquiry was fairly and properly held. As the punishment is less than dismissal, removal from service this tribunal will have no jurisdiction to go into the proportionality of punishment. Still the auth. representative for the workman had maintained that time may be given to him to show that the order of punishment even on established facts is illegal.

5. Having heard the authorised representative of both sides and having gone through the record I agree with the authorised representative of the workman that this Tribunal can go into the illegality of punishment order even if such punishment order is less than punishment of dismissal or removal from service. The authorised representative of the concerned workman has drawn my attention to Ext. M-8 copy of show cause notice dated 16-6-90 which was issued by the disciplinary authority to the concerned workman. It is found that after agreeing with the report of enquiry officer, the disciplinary authority had proposed to inflict punishment of stoppage of two future increments as provided in clause 19.6 of Bipartite Settlement. Ext. M.10 is the final punishment order dated 3-1-91 passed by the disciplinary authority. By this order the disciplinary authority after making deviation from the proposed punishment has awarded stoppage of one future increment with cumulative effect. This order further shows that delinquent had not submitted any reply to show cause notice. It would impleadly mean that he was satisfied with the proposed punishment of two increments. There can be no dispute that stoppage of one increment with cumulative effect is more harsh than that of simple stoppage of two increments. It is a trite proposition of law that disciplinary authority cannot impose the punishment higher than proposed without issuing any show cause notice. This is cardinal principle of natural justice. As the disciplinary authority has committed breach of this cardinal principle, I upheld the objection of the delinquent and find that awarding of punishment of stoppage of one increment with cumulative effect is bad in law. Instead he ought to have been awarded punishment of stoppage of simple two increments as was proposed.

6. Hence my final award is that imposing of punishment by way of stoppage of one increment with cumulative effect is bad in law. In lieu of that he is awarded punishment by way of stoppage of two future increments as provided in para 19.6 (d) of Bipartite Settlement dated 19-10-66.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 1 अप्रैल, 1998

का.मा. 841.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबन्धन के संबंध में निदेशित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-3-98 को प्राप्त हुआ था।

[सं. एल-17012/61/92-आई.आर. (बी-II)]

सनातन, डेस्क अधिकारी

New Delhi, the 1st April, 1998

S.O. 841.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bhartiya Jeevan Bima Nigam and their workman, which was received by the Central Government on 31-3-98.

[No. L-17012/61/92-IR (B-II)]

SANATAN, Desk Officer

ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 35 of 1993

In the matter of dispute :

BETWEEN

Virendra Kumar C/o Central Zone National Life Insurance Employees Association 70-D Shyam Nagar, Kanpur Pin-208013.

AND

Sr. Divisional Manager,
Bhartiya Jeeban Bima Nigam,
16/98 The Mall Kanpur

APPEARANCE :

M. L. Agrawal—for the Management and
Neeta Mathur—for the workman.

AWARD

1. Central Government, Ministry of Labour, vide Notification No. L-17012/61/92-IR-B.II dated 26-3-93, has referred the following dispute for adjudication to this Tribunal :—

Whether the claim of the Central Zone National Life Insurance Employees Association, Kanpur, that Sri Virendra Kumar is entitled to be appointed in the service of the LIC in terms of the NIT Award is justified ? If not, to what relief is the workman entitled to?

2. The case of the concerned workman is that he had worked as a peon for 144 days at Kanpur branch of the opposite party the details of which have been given in para (1) of the claim statement. A reference was made regarding absorption of ex-employees of the opposite party by Government of India to Justice R. D. Turpule. His award was given on 16-4-86. According to this award the persons who had worked between 1-1-82 to 20-5-85 were to be absorbed. As the concerned workman had worked during this period as stated above he was entitled for absorption. The opposite party has erred in not appointing him in this way.

3. The case of the opposite party LIC is that matter has been settled by compromise before the Hon'ble Supreme Court. It is further alleged that as the concerned workman had not worked for minimum number of days as given in the award he was not found suitable for absorption.

4. In the rejoinder it is alleged that the Union of the concerned workman was not a party to the settlement before the Hon'ble Supreme Court hence he is not bound.

5. After having gone through the evidence of the concerned workman I think that this case need not detained for long. According to the direction in the award screening committee was to be appointed which had to consider the suitability and desirability of the candidate and only then appointment was to be made. Hence this award does not give right of appointment. Further from the evidence of Virendra Kumar it is found that in 1992 his test has taken place and interview had also taken place.

6. Ext. M-5 is the letter issued by the opposite party to the concerned workman by which he was called for interview. Thus it will be seen that the concerned workman was actually considered and if he was not found suitable question of his appointment does not arise. The main objection of the concerned workman was that to give opportunity to the eligible candidates and the same has been given, hence the purpose of the award was served. As the concerned workman was not found suitable and if he was not given appointment nothing can be done.

7. Hence, my award is that the concerned workman is not entitled for absorption on the basis of award and consequently he cannot be appointed.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 2 अप्रैल, 1998

का.आ. 842.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबन्धन के संलग्न निषेधकों और उनके कर्मचारों

के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधि-करण, पटना के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-4-98 प्राप्त हुआ था।

[सं. एल-12012/247/95-आई.आर. (बी-II)]
सनातन, डेस्क अधिकारी

New Delhi, the 2nd April, 1998.

S.O. 842.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, PATNA as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 1-4-1998.

[No. L-12012/247/95-IR (B-II)]
SANATAN, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference No. 5 of 1997 (Central Government)

The Zonal Manager, U. Co. Bank, Zonal Office, Mauryalok, Patna and their Workmen represented by State Secretary, U. Co. Bank, Employees Association, Exhibition Road, Patna.

For the Management : Shri Prannoy Kumar, Asstt. Chief Officer (Personnel) Zonal Office, UCO Bank, Patna.

For the Workman : Shri B. Prasad, State Secretary UCO Bank Employees Association, Exhibition Road, Patna.

PRESENT :

Shri Raja Ram Singh, Presiding Officer, Industrial Tribunal, Patna.

AWARD

The 27th March, 1998

By adjudication Order No. L-12012/247/95-IR (B-II), dated 30-12-1996 read with corrigendum issued subsequently the Central Government (Government of India) in the Ministry of Labour, New Delhi referred u/s. 10 (1)(d) of the Industrial Disputes Act (hereinafter referred to be as 'the Act') the following disputes between the Management of U. Co. Bank, Patna and its workmen for adjudication :—

"Whether the action of the Management of UCO Bank in denying regularisation of services of Shri Prakash Ram is legal and justified ? If not, to what relief is the said workman entitled ?"

(Hereinafter Prakash Ram will be referred as the 'workman').

2. After receipt of the aforesaid adjudication order the reference was registered and the parties were directed to

23-6-1997. On 23-6-1997 both parties appeared and a written statement of claims was filed on behalf of the workman represented by State Secretary, UCO Bank Employees Association (hereinafter to be referred as 'the Union'). Copy of the written statement filed on behalf of the workman was served on the Management and the Management filed its written statement of the claim. Thereafter rejoinder was filed on behalf of the workman through the union to the written statement of the claim filed on behalf of the Management.

3. Documents were filed on behalf of the workmen by the union but no document was filed on behalf of the Management. Thereafter a date was fixed for evidence and three witnesses were examined on behalf of the workman and three documents were admitted into evidence which were marked Exhibits 1 to 3. However, no evidence was adduced on behalf of the Management. Management was given opportunity to produce evidence but they refused. Thereafter the argument was heard on behalf of both parties.

4. The case of the workman as mentioned in the written statement filed on his behalf is as follows :—

Shri Prakash Ram was orally appointed by the Management of UCO Bank as a temporary Peon to work at K. R. College Extension Counter under Bermo Branch of the Bank w.e.f. 8th September, 1988.

After the appointment the workman performed the following duties :—

- (i) Opening and closing of Bank's Gate.
- (ii) Cleaning tables, chairs and counters of the Bank.
- (iii) Bringing out ledgers, registers from the Almirah and placing the same on the Tables, Chairs, counters of the Bank ;
- (iv) Carrying token, scroll register from Accounts Department to Cash Department and vice-versa ;
- (v) Carrying registers, ledgers as per requirement ;
- (vi) Posting of Mails, distribution of Daks ;
- (vii) Stitching of currency notes whenever required ;
- (viii) Serving water to the members of staff and customers.
- (ix) Bringing tea, bottle from the nearby shop for members of staff.

The workman has been discharging his duties from 9.30 A.M. to 5.30 P.M. The workman after appointment has been working since 8-9-1988 regularly with some break on account of sickness or leave due to urgent reasons. The workman has been working continuously since the last over 8 years and has worked for over 240 days in a calendar year.

The workman was being paid at the rate of Rs. 10/- per day and presently getting at the rate of Rs. 25/- per day as wages ;

The workman has not been paid Bonus as per the provisions of Payment of Bonus Act, 1965. The workman was appointed against a permanent vacancy of a Peon. He was appointed to work from the very date of the opening of the Extension Counter Office of the Bank ;

The unions and the Management of UCO Bank entered into a settlement in the year 1989 for permanent absorption of casual workers who had worked for 240 days during three years preceding the settlement ;

The workman having come to know about the terms and conditions of the settlement, applied for empanelment and subsequent regularisation in the Bank's standard proforma .

After the 1989 settlement for absorption of casual workers, several persons were empanelled for regularisation and their wages revised from time to time keeping in view the price-rise.

Even after application the Management did not ever intimate the workman that he was empanelled for permanent absorption as a Class IV employees ;

Those persons who put in 240 days of service during a span of three years as per settlement are being paid wages at the rate of Rs. 89/- per day w.e.f. 1-11-1996 and were paid wages at the rate of Rs. 77/-, Rs. 81/- per day ;

When the workman saw that his case was not considered the approached UCO Bank Employees Association and an industrial dispute was raised before the Asstt. Labour Commissioner (Central) Ministry of Labour, Government of India, Maurya Lok Complex, Patna vide letter dated 3-5-1994 ;

A Conciliation proceeding was held on various dates, but the conciliation ended in failure and failure of conciliation report was submitted to the Ministry of Labour, Government of India, New Delhi which resulted into this reference. The workman was not paid wages for Sundays and Holidays. The workman was not paid wages at par with the counter-part performing similar nature of duties and the workman is entitled for regularisation as a Class IV employee in Bank's permanent pay scale in subordinate cadre on the following grounds :—

- (i) The workman has been discharging all the duties of a permanent peon since the last over 8 years continuously.
- (ii) The workman has worked for more than 240 days in a Calendar year ;
- (iii) The workman although performed similar nature of work he was discriminated and was paid low wages which is an unfair labour practice on the part of the Management as per Schedule V of the I.D. Act, 1947 ;
- (iv) The Management has violated the principles of 'Equal pay for Equal work' as enshrined in the Chapter IV dealing with Directive Principles of the State Policy in the Constitution of India ;

- (v) The action of the Management is not regularising the services of the concerned workman is discriminatory, arbitrary and bad in law.

So prayer has been made to answer the Reference in favour of the workman.

5. The case of the Management as mentioned in its written statement is as follows :—

The Reference is bad in law due to the following reasons :—

- (i) The workman was engaged for performing certain contingent nature of work on a casual basis by the Officer Incharge/Manager of UCO Bank, K. B. College Extension Counter Bermo who did not have any authority to engage. The engagement thus is void ab-initio. So the workman was utilised by the Officer/staff of Mermo Branch/Extension Counter K. B. College Extension counter without authority.

The Bank is a 'State' within the meaning of Article 12 of the Constitution of India and is obliged to function within parameter of Art. 14 and 16(1) of the Constitution of India in the matter of appointment. The Employment Exchange Act is to be followed and names sponsored by the Exchange are to be considered for recruitment in the subordinate cadre. Under such circumstances the workman can not take a valid claim to be regularised and appointed in teeth of constitutional inhibitions and pronouncements of the Supreme Court of India. He can not claim to be regularised.

- (iii) The Conciliation Authority functioned mechanically.
- (iv) There was no sanction/provision for engagement of the casual worker from the competent authority.
- (v) Since engagement of casual worker engaged for contingent nature of work was invalid ab-initio, he is not a workman under the provisions of section 2(s) of the Industrial Disputes Act, 1947 and demand for regularisation of such casual worker is not an industrial dispute under section 2(k) of the Industrial Disputes Act. There was no relation of employer and employee between the Management of UCO Bank and the workman.

It is not correct to say that the workman was ever appointed by the Bank as peon. As a matter of fact he was supply drinking water, Tea etc. i.e. jobs of contingency in nature and there was no approval from the competent Authority. The casual worker was not maintaining any time schedule and was not required to do so.

There being no full time regular and sufficient job for casual worker at the concerned office of the Bank, no such post or vacancy was available and sanctioned by the competent authority of the Bank.

The casual worker i.e. Sri Prakash Ram was therefore not entitled for Bonus etc. The post of permanent sub-staff was not sanctioned so the regularisation of Prakash Ram against a non-existent post of sub-staff does not arise. For filling up a permanent post, a person is appointed as a probationer provided he fulfils all the eligibility conditions and is selected and recruited as per the procedure of the Bank after his name is sponsored by the local Employment Exchange, he is regularised against the permanent vacant post. So the claim of the workman for regularisation has been denied by the Management.

6. A rejoinder was filed on behalf of the workman to the written statement filed by the management in which it was alleged that at no point of time it was even contended by the representative of the Management that Prakash Ram was not a workman u/s 2(s) of the Act. It is not correct to say that Prakash Ram was not appointed by the Bank as peon. Further he was orally appointed as a temporary peon with the assigned duties of a Peon as the said Extension Counter did not have subordinate staff since its opening date i.e. 8-9-1988. The records of the Bank also support that the said workman was performing all the duties of a peon. The submissions made in the written statement filed on behalf of the Management have been denied by a large. It has been alleged that the Management of a public sector Bank is supposed to be a Model Employer but after going through the submissions made in the written statement of the Management it appears that the Management has failed to act as Model Employer, rather, resorted to unfair labour practice in taking works of a peon from a poor person on low wages after taking undue advantage of the problem of unemployment prevailing in the country.

7. Now the point for determination arises whether the action of the Management of the UCO Bank in denying regularisation of services of Sri Prakash Ram is legal and justified.

8. There is no controversy on this point that Prakash Ram is working since 8-9-1988 at K.B. College Extension Counter of UCO Bank under Mermo Branch. According to the workman he was performing the function of peon although he was a daily rated employee from the very date of opening of the Extension Counter of the Bank. According to the Management he was engaged as casual worker for contingent nature of work. So according to the Management Prakash Ram was not a workman under the provisions of section 2(s) of the Act, so demand for regularisation of casual worker can not constitute industrial dispute under section 2(k) of the Act. However, in view of the decision of the Hon'ble Patna High Court in the case of Dinesh Sharma and others and State of Bihar and others reported in B.L.J.R. (Vol. 31) p. 207 the casual workers are also workmen u/s 2(s) of the Act and the benefit under the Act including section 25F is available to casual workers also. Under such of circumstances Prakash Ram is workman u/s 2(s) of the Act and dispute relating to conditions of service comes under the industrial dispute u/s 2(k) of the Act. So the submission made on behalf of the Management can not prevail.

9. On behalf of the workman three witnesses have been examined. Witness No. 1 Subodh Tigga is clerk-cum-cashier in K.B. College Extension counter of UCO Bank at Bermo Branch. He has stated in his evidence that he is working in the said Extension counter at Bermo since 13-3-1989. He has further stated that when he was joined there was no permanent Peon. Prakash Ram used to perform the function of Peon. He used to perform the following duties—(1) To open the Bank (2) To clean the office (3) To clean the furniture (4) he brings the token, scroll book from the Almirah and carries to the Cash Department (5) posting of mails (6) he delivers daks to another Bank etc. So this witness has clearly stated that he used to perform the function of Peon. He further added in his evidence that he remained in Bank from 9.30 A.M. to 5 P.M. and he performed the above functions on the direction and under the supervision of the Officer Incharge of the Extension Counter. He has further alleged that Prakash Ram is continuously performing his duty and he is working before he (witness) joined there. So he always saw him working since he (witness) joined his duty. Prakash Ram worked more than 240 days continuously in a calander year. He has proved some documents which have been worked Exhibits which will be discussed later on at the relevant time. In the cross-examination he has stated that he (witness) was selected and appointed by the Board and he got appointment letter. He has further stated that UCO Bank is a nationalised Bank. He has not been his (workman) appointment letter. His (workman) wages is paid by the voucher and wages paid to his debited against the working expenses. His name is not mentioned in the salary sheet. He has admitted that there is a peon on the deputation since last two to three years and the name of the peon is Prabhu Dayal Mishra. He has admitted that Prakash Ram brings water for drinking and serve teas to the employees if available.

10. W.W.2 is Makesh Kumar Verma who is Head Cashier in K. B. College Extension Counter of Bermo Branch. He has supported the evidence of W.W.1 on the point of function said to have been performed by Prakash Ram. He has clearly stated that Prakash Ram performed the duties of clearing of Table, Chair, Counter etc., taking out ledger, register from the Almirah and bringing token Books and cash scroll from the Accounts Department to Cash Department, posting mail of the Banks, serving drinking waters to staff and customers. He has stated that formerly he used to stitch the packet of currency notes but now a peon has been deputed from last two years as a Daftari. He has stated that no permanent peon has been posted as yet at K. B. College, Extension counter, Bermo Branch. He has stated that Prakash Ram gets Rs. 25/- per day as wages. Prakash Ram works from 10 A.M. to 5.30 P.M. Prakash Ram was working on the said counter before his (witness) joining there as Head Cashier. He joined as Head Cashier in the month of August, 1989 and the Extension counter started to function on 8-9-1988. He has clearly stated that Prakash Ram worked continuously and he performed the same duties which is being performed by a permanent peon. In the cross-examination he has stated that the attendance of Prakash Ram

is marked on separate copy and copy remains in the custody of Officer Incharge of the Bank. He has admitted that a peon has been deputed in the Bank who is Daftari since last October, 1996. Prakash Ram is still performing the above functions after the deputation of the said peon. He has stated that the deputed peon hardly gets time to perform all functions because of distance of controlling office and the State Bank.

11. W.W.3 Prakash Ram is workman himself. He has stated that he is working as Peon on daily wages basis from 8-9-1988 at K. B. College Extension counter of UCO Bank at Bermo Branch. The Extension counter was opened on 8-9-1988 and since then there is no permanent peon. He goes in the office at 10 A.M. and performs the duties of a peon including cleaning of chairs, counter, tables, taking out ledger, registers from the Almirah and placing the same on the Tables and counters. He has further stated that he carries the postal mails to the post office. Formerly he used to stitch the currency notes and vouchers and presently also he performs this work occasionally. He is working continuously since 8-9-1988. When he joined he was getting Rs. 10/- per day and to-day he gets Rs. 25/- per day. When he joined there was no any peon so he used to work against a permanent vacant post. He has stated that he filed an application for regularisation in the Bank service as a class IV employees on 27-11-1989. He has proved his signature on Ext. 2. He has stated that performa of this application was handed over to him by the Manager. He does not get the wages for Sunday and holidays. He was never given bonus. When he applied for regularisation an assurance was given by the Manager that the regularisation of the service will be made within a year. When his service was not regularised he approached the union for raising the dispute. He performs the duties on the direction of the Manager. He performs the same function which is required to be performed by the permanent Peon. He has stated that a permanent peon has been deputed since two years after raising the dispute for regularisation. In this cross-examination he stated that he was not issued any letter of appointment. He has admitted that there was another peon who performs the function of Daftari and who has been deputed recently. He has admitted that he also served water to the members of the staff.

12. No evidence has been adduced on behalf of the Management.

13. From the evidence of the above three witnesses examined on behalf of the workman the following facts emerge—

- (1) Prakash Ram used to perform the function of peon since the very inception of the K. B. College Extension counter of UCO Bank at Bermo Branch. He is paid wages on daily basis (2) There was no peon in the said Extension counter since its inception but a Peon has been deputed since two years who works as Daftari also (3) The Peon has been deputed after raising the industrial dispute for regularisa-

tion of the service of Prakash Ram. So there was no deputation of any peon in the Extension counter before raising the dispute on behalf of Prakash Ram for regularisation (4) Undoubtedly it appears that there was function to be performed by a Peon even before the deputation of a Peon at the said counter, so it becomes evident that Prakash Ram was performing all the functions of peon, at least, before the deputation of Prabhu Dayal Mishra as a peon in the Extension Counter. So whatsoever may be the condition of service of Prakash Ram in the record of Bank, it is evident that Prakash Ram was performing all the function of a peon including supply of water and tea to the members of staff before 1996. So Prakash Ram performed the function of peon since 8-9-1988 to 1996 i.e. before the deputation of Prabhu Dayal Mishra at the Extension Counter.

14. Not only the oral evidence but the documentary evidence adduced on behalf of the workman also corroborates the oral evidence of the witnesses on this point. Ext. 1 is the letter addressed to the Divisional Office, Ranchi by Bermo Branch. In this letter the application in duplicate received from K.B. College Extension counter relating to the Circular No. CH/PAS/16/89 dated 19-10-1989 was forwarded. Ext. 2 is the photo copy of the application filed by Prakash Ram for regularisation of his service on permanent cadre. Ext. 3 is the letter sent to the Divisional Office, Ranchi by Bermo Branch. In this letter Manager of Bermo Branch has confirmed that applicant Prakash Ram was doing the job of office cleaning as a water Boy and Peons' job since the opening of the Extension Counter till date. He has further confirmed that the applicant was doing a full days job as a casual worker in the subordinate cadre. He has further confirmed that the applicant has completed minimum 240 days works in three years i.e. from 12-10-1986 to 11-10-1989. So these 240 days included holidays and Sundays. So according to the report of the Manager of the Bermo Branch the workman has completed 240 days upto 11-10-1989. So from the report of the Manager of Bermo Branch it is confirmed that the workman performed the function of Peon since the opening of Extension counter and was doing a full day job as a casual worker in the subordinate cadre.

15. Thus it has been sufficiently established that the workman was discharging the duties of a peon since 8-9-1988 to 1996 before the deputation of Prabhu Dayal Mishra. The workman worked for more than 240 days in a calendar year. It is also proved that the workman was previously paid at the rate of Rs. 10 per day but at present he is getting Rs. 35 per day. So the Workman functioned continuously for many years and performed the function of a peon in subordinate cadre.

16. It has been alleged on behalf of the Management that the workman was engaged for performing certain contingent nature of work on casual basis by the Officer Incharge of Bermo Branch who has no authority to engage. So engagement of casual worker

engaged for contingent nature of work was invalid ab-initio. So the main ground on behalf of the Management is that the workman was not appointed in a regular manner by competent authority. However no evidence has been adduced on behalf of the Management to show how the workman was appointed or engaged but it becomes evident that he was working in the Bank on daily wages since the inception of the Extension counter and was performing the functions which is required to be performed by a Peon and staff in a subordinate cadre. So it become evident that the Bank was taking the work of peon from the workman since very inception and a peon was deputed in the Extension Counter when the industrial dispute was raised on behalf of the workman.

17. The representative on behalf of the workman submitted that this conduct of the Management is amounted to unfair labour practice as schedule V of the Act. It is difficult to say that there is no force in the contention advanced by the representative of the workman. However the workman is still working there so it cannot be said that his appointment was illegal. It is for the Management to show that under what of circumstances he was appointed and is still working. No evidence has been adduced on behalf of the Management to corroborate the facts mentioned in the written statement filed on behalf of the Management. So the allegations made in the written statement filed on behalf of the Management has not been established by legal evidence. Mere making allegation in the written statement will not amount to evidence. There is no even iota of evidence to prove the allegations made in the written statement filed on behalf of the Management and denied by the workman although the workman has been termed as a casual but he was not appointed for a specific work for a specific time. He is still working and may be continued through out his life as such. He is not a such type of a casual workman who worked for a few days in a month and went away. The Hon'ble High Court at Patna in the case of Krishna Murari Pd. and others Vs. Allahabad Banks and other., reported in 1991-I P.L.J.B. 567 observed that the concept of casual workers on daily basis is that the persons are employed for specific period or some specific work and on completion of this specific period or this specific work the employment automatically comes to an end. So according to this concept of casual worker this workman does not come under the pervue of such casual worker although he may be termed as daily rated. Thus in the absence of any evidence to the contrary by the Management it is difficult to believe that initial entry of the workman was not legal. The Management has not adduced evidence on the point. So the circumstances available on the record only show that the workman was employed on a daily rated basis and performed the function of Peon till a permanent peon was deputed about two years the day before. However according to the witnesses examined on behalf of the workman who are no other than the staff of the Extension Counter the workman performed all the functions of peon before the deputation of a permanent peon and is still performing some function of the Peon. According to the witnesses the workman performed the functions from 9.30 A.M. to 5 P.M. In the written statement filed on behalf of the Management it has been alleged that the casual workman is

not maintaining any time schedule and was not required to do so as well. But no evidence has been adduced to deny the evidence adduced by the witness Nos 1 and 2 who are no other than the Clerk-cum-Cashier and Head Cashier at the Extension Counter. Under such circumstances the allegations made by the Management cannot be accepted. So in face of the evidence adduced by the staff of the Extension Counter it becomes evident that the workman all along attended the Extension Counter according to the time schedule of the Extension Counter and performed the work. So the allegations made on behalf of the Management has no leg to stand.

18. However the only ground on which the Management has relied is that he was not appointed by the competent authority in a regular manner as Peon. But it has been established that he performed the function of Peon for a many 240 days in a calendar year. So he continuously worked for many years as stated above.

19. The Hon'ble Supreme Court in the case of Daily Rated Casual Labour employed under P & T Department through Bhartiya Dak Tar Mazdoor Manch V. Union of India and others reported in A I R. 1987 SC. P. 2342 at page 2346 observed as follows :—

"We are of the view that such denial amounts to exploitation of labour. The Government cannot take advantage of its dominant position and compel any worker to work even as a casual labourer on starving wages. It may be that the casual labourer has agreed to work on such low wages. That he has done because he has no other choice. It is poverty that has driven him to that state. The Government should be a model employer."

This observation of the Hon'ble Supreme Court is applicable in this case also. Due to poverty of the workman he was compelled to work as a daily rated wage of Rs. 10 and subsequently at the rate of Rs. 25 although he was performing the function of Peon in a subordinate cadre. The Hon'ble Supreme Court gave direction to the respondent to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Posts and Telegraphs Department. So the Hon'ble Supreme Court gave direction to prepare a scheme for regularisation of a casual worker who worked continuously for more than one year in the department. In this case the workman has worked for many years as casual worker and performed the function of peon. The Hon'ble Supreme Court gave direction to pay casual employees the minimum pay payable to the employee in the corresponding regular cadre. The Hon'ble Supreme Court clearly observed that non regularisation of temporary employees or casual labour for a long period is not a wise policy. So in this case also the Management who is a public sector Bank is not acting as a Model Employer, rather, had taken undue advantage of the poverty of the workman. The Management had taken the work of peon in the subordinate cadre but had paid nominal wages on the daily basis, 1014 GI/98—5

20. The Hon'ble Supreme Court passed following order in an unreported case in Civil Appeal No. 1509-(NL) of 1987 on 16-12-1987 :—

"Since it is admitted that a large number of people have been working as casual labourers for a long number of years, the question whether they were initially appointed regularly or irregularly becomes immaterial for purpose of the question involved in this case. This Court has in a number of decisions already rendered by it directed regularisation of casual labourers wherever it found that such labourers had been working for a number of years vide Daily Rated Casual Labour employed under P&T Department through Bhartiya Dak Tar Mazdoor Sangh Vs. Union of India & Ors. (1987)2 SCALE B44, U.P. Income-tax Department contingent part staff welfare Association Vs. Union of India & Ors. (Writ petition 1870 of 1986 decided on December 4, 1987) and Delhi Municipal Karamchahi Ekta Union (Regd.) Vs. Shri P. L. Singhla (Civil Appeal No. 3921 (NL) of 1987 decided on December, 7, 1987.

Following the above decisions we direct the respondent Corporation to prepare a reasonable Scheme for regularisation of the casual labourers who have been working for more than one year. The scheme will be prepared within 8 months from today. We also direct the respondent-Corporation to pay with effect from 1-1-1987 salary and allowances to the casual labourers at the rates equal to the minimum pay in the pay scale of regularly employed persons in the corresponding cadres of the Corporation. All arrears payable pursuant to this order shall be paid within four months from today. The appeal is disposed of accordingly. No costs."

20. The aforesaid order was passed by the Hon'ble Supreme Court in relation to an award passed by this Tribunal in Reference No 27 of 1982. In the said award this Tribunal held that it would be wrong to suggest that all those casual employees who have completed services of 240 days should be regularised irrespective in what ever way they were engaged. It is just possible that the Management might have regularised the services of some casual employees though not regularly appointed. That however, would be confer any right to the other illegally or irregularly appointed workmen and they cannot claim to be regularised on that basis. However the matter went to the Hon'ble Supreme Court and the Hon'ble Supreme Court in the aforesaid order following the many previous decisions as mentioned above observed that whether they (casual workers) were initially appointed regularly or irregularly becomes immaterial for the question involved in this case and directed to prepare a reasonable scheme for regularisation of casual workers who have been working for more than one year. So according to the aforesaid direction of the Hon'ble Supreme Court there is no question whether the workman in the instant reference was appointed regularly or irreg-

gularly for regularisation of the services as Peon in subordinate cadre. The case of this workman stands on a better footing because this workman has performed continuously the function of peon for many years more than 240 days in a calendar year).

21. The Management has relied upon a decision of the Hon'ble Supreme Court in the case of *Ashwani Kumar and others Vs. State of Bihar and others* reported in A.I.R. 1997 S.C.P. 1628. The Management has relied upon this decision in this Reference Dr. A. A. Malick, Deputy Director, Health Department of the Government of Bihar appointed about 6,000 persons without any written order. This was an "appointment scam". The Government of Bihar directed the Vigilance Department to enquire into the matter and the Vigilance Department in its report pointed out that Dr. Malick had violated the rules of recruitment and in collusion with other officers had appointed daily rated Class III and Class IV employees. Pursuant to the direction of Hon'ble High Court Screening Committee was constituted which sought to serve notice on the employees. When the Deputy Director went to the Centre at Patna to serve the notice on the employees, he was manhandled resulting in an ugly law and order situation. In consequence, notices were published on two different dates, in different news papers inviting submission of the claim by all the employees appointed by Dr. Malick, together with supporting materials justifying their appointments. Different dates of hearing by the Committee staggered. About 987 employees appeared before the committee and submitted their statement. In the meanwhile, relevant records were burnt out. The High Power Committee in the absence of authentic record was constrained to depend upon the statements made by the employees before it. After hearing them, and considering the record placed before it, the Committee found that Dr. Malick did not make any order of appointment on daily wages basis by following due procedure. It is found difficult to accept even the orders of confirmation. In that view the committee found that the initial appointments made by Dr. Malick were in violation of the instructions issued by the Government. Therefore, they were found to be illegal appointments. The Committee also found that Dr. Malick circumvented the rules by making adjustment by transfer without verifying the qualifications, eligibility or disclosing previous places whereat the candidates appointed had worked and dates of their appointment and by transferring them to the respective places by cyclostyled orders. The Committee also noted that the third category was of persons who were appointed by producing fabricated orders of appointment. Consequently, it directed to cancel all the appointments made by Dr. Malick. On the receipt of the report and on its consideration, the Government found them to be invalid and illegal and all the appointments were cancelled. When their legitimacy was questioned in the writ petitions filed under Article 226, the High Court upheld the Government action. So the appeals were filed in the Hon'ble Supreme Court by special leave against the order of the Hon'ble High Court.

22. The learned representative on behalf of the Management submitted that in this case the Hon'ble Supreme Court has held :

"However, there would never arise any occasion for regularising the appointment of an employee whose initial entry itself is tainted and is in total breach of the requisite procedure of recruitment and especially when there is no vacancy on which such an initial entry of the candidate could even be effected. Such an entry of an employee would remain tainted from the very beginning and no question of regularisation such an illegal entrant would ever serve for consideration, however competent the recruiting agency may be."

The so-called regularisations and confirmation could not be relied on as shields to cover up initial illegal and void actions or to perpetuate the corrupt method by which these 6000 initial entrants were drafted in the Scheme by Dr. Malick.

23. The representative of the Management submitted that according to the pronouncement of the Hon'ble Supreme Court in this case when initial appointments were in violation of rules or in other words when there is no order of appointment there would remain no question of regularisation of illegal appointment. So the workman cannot be regularised in Class IV service in the subordinate cadre. The Hon'ble Supreme Court made this observation in the case where mass appointments were made by Dr. Malick ignoring all the established cannons and procedures of the appointment. The Hon'ble Supreme Court held that they were all persons non grata and were not employees in the real sense of the term. The Hon'ble Supreme Court observed that they were contrary to all recognised recruitment procedure, and were highly arbitrary, they were not binding on the State of Bihar. Here the workman is not persons non grata and he is serving the Bank in so many years and the Management has no grievance. So the case of the workman is different from the appointments made by Dr. Malick in the aforesaid case. Moreover this Reference has been made under Industrial Disputes Act which is a social and beneficial legislation and the workman under this Act has special privilege. From the above decisions of the Hon'ble Supreme Court it becomes evident that the Hon'ble Supreme Court recognised the regularisation of the casual workers as measure of social reforms and to give effect the directive principles of the State Policy. The Hon'ble Supreme Court found the action of Dr. Malick arbitrary, illegal, unjustified and also corruptive in nature. But here the poor workman has been serving in the Bank and was performing the function of Peon although he was given nominal wages on daily basis. So here the workman cannot be put at par with the appointments who were appointed by Dr. Malick, in the above cases. Moreover no evidence has been adduced on behalf of the Management to show that how the workman was appointed and in what circumstances he was working and was performing the function of peon and still he is working there. The

friend of the Hon'ble Supreme Court in the above cases is clear that the casual workers should be regularised if he has worked continuously for a year whether his initial appointments were regular or irregular. If the workman is denied the right to regularisation of his service it will be retardation or regression in the theory of regularisation of casual workers pronounced by the Hon'ble Supreme Court.

24. Moreover it is the case of the Management that in the year 1989 unions and the Management of the UCO Bank entered into a settlement for permanent absorption casual workers who has worked for 240 days during three years preceding the settlement. This fact has not been denied by the Management. So the fact not denied will be deemed to be admitted.

25. Now the workman W.W.3 has stated in his evidence that he filed an application for regularisation in the Bank service as Class IV employee on 27-11-89. He has stated that proforma of the application was handed over to him by the Manager. It appears that he filed the application (Ext. 2) in the prescribed form which also speaks of absorption in the Banks service on permanent basis. It appears that the application was forwarded to the Divisional Office, Kanchi by the Manager of Bermo Branch. It appears that the Manager of Bermo Branch made recommendation to the workman for absorption of the workman in Class IV service of the subordinate cadre as per Circular No. CH/FAS/16/89 dated 19-10-1989. He confirmed the claims of the workman. The workman has stated in his evidence that when he was not absorbed an industrial dispute was raised. From this circumstance, it appears that there was plan of absorption of casual workers in Banks subordinate service as per circular No. CH/PAS/16/89, dated 19-10-1989. So there was provision for absorption of casual workers in the subordinate cadre. From Ext. 3 it appears that the workman fulfilled the requisites. So the provision was made for regularisation of service of the casual workers. So it cannot be said that there was no provision for absorption of casual workers in Class IV service of the subordinate cadre. So appointment as the casual worker was sufficient for absorption in Class IV service of the subordinate cadre. No evidence has been adduced on behalf of the Management that what kind of casual workers were required to be absorbed according to the plan. So under such circumstance, it cannot be said that the services of casual workers cannot be regularised as Peon in Class IV service of the subordinate cadre. So it is difficult to say that dictum of the Hon'ble Supreme Court in the case of Ashwani Kumar and others Vs. State of Bihar and others will be applicable to the regularisation of the casual workers under the Industrial Disputes Act, 1947.

26. So on the basis of the above discussions. I find and hold that the action of the Management of UCO Bank in denying the regularisation of services of Prakash Ram is neither legal nor justified.

27. Now the question arises to what relief the workman is entitled. The workman claimed regularisation of his service as a Peon as Class IV employee in

the subordinate cadre of the Bank. So in my opinion he is entitled to this relief. He is entitled to the regularisation of his service as a Peon as Class IV employees in the subordinate cadre of the Bank since the date of the publication of the Award. Thus the Reference is answered accordingly.

RAJA RAM SINGH, Presiding Officer.
28. This is my award.

नई दिल्ली, 7 अप्रैल, 1998

का.आ. 843 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार श्री पी. जोय-विलावरयार के प्रबन्ध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, मद्रास के पंचपट को प्रकाशित करती हैं, जो केन्द्रीय सरकार को 7-4-98 को प्राप्त हुआ था।

[सं. एल-44012/34/93-आई.आर. (विधि)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 7th April, 1998

S.O. 843.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Madras as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Shri P. Joe Villavarayar, and their workman, which was received by the Central Government on 7-4-1998.

[No. L-44012/34/93-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU
CHENNAI

Monday, the 9th day of March, 1998

PRESENT :

Thiru S. Ashok Kumar, M.Sc., B.L., Industrial Tribunal,

Industrial dispute No. 137 of 1994

(In the matter of the dispute for adjudication under section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the management of P. Joe, Villavarayar, C/o The Secretary, The Tuticorin Sailing Vessel Owner's Association, Tuticorin.)

BETWEEN

Thiru L. Anto,
C/o The General Secretary,
Tirunelveli District Democratic General Workers' Union,
Tuticorin-628001.

AND

Thiru P. Joe Villavarayar,
C/o The Secretary,
The Tuticorin Sailing Vessel Owner's Association,
72, Thattar Street,
Tuticorin-628001.

REFERENCE :

Order No. L-44012/34/93-IR (Misc.) dated 4-4-1994,
Ministry of Labour, Government of India, New
Delhi.

This dispute coming on this day for final disposal in the presence of Thiru R. Arumugam & M. Jeyaprakash authorised representatives for the workman and of Thiru Michael Amalraj, advocate appearing for the management, upon perusing the reference, claim and counter statements and other connected papers on record and the workman having filed a memo for not pressing this dispute, and recording the same, this Tribunal passed the following.

AWARD

The reference is made for adjudication of the following issue ;

“Whether the action of the management of P. Joe Villavarayar in denying employment to Sh. L. Anto is justified? If not, to what relief the concerned workman is entitled?”

Memo filed not pressing the claim petition. Industrial Dispute is dismissed as not pressed.

Dated, this 9th day of March, 1998.

THIRU S. ASHOK KUMAR, Industrial Tribunal

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT MADRAS

I. D. No. 137 of 1994

L. Anto,
S/o Lucas,
34, East Shanmugapuram,
Kayam Compound,
Tuticorin.

.. Petitioner

Versus

J. P. Joe Villavarayar,
S/o Ponnusamy Villavarayar,
19, Chidambaranagar,
1st Street,
Tuticorin-3.

.. Respondent

Memo filed by the Petitioner/Workman

The above dispute is raised by me against the respondent against my non-employment. Pending the above dispute, I amicably settled the issue with the respondent and hence I am not pressing my claim before this Honourable Court.

In these circumstances, the petitioner herein prays that this Hon'ble court may be pleased to dismiss the above dispute as not pressed and render justice.

Dated, at Tuticorin on this 7th day of March, 1998.

Sd/-

7-3-98

(M. Jeyaprakash)

Petitioner's Representative

Sd/-

(L. ANTO)

Petitioner

नई दिल्ली, 7 अप्रैल, 1998

का.आ. 844 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रायकेला तंत्रा बैन्दोरा आयरन ओरी माइन्स में, जिनदल स्ट्रिप्स लि. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, राउरकेला के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-4-98 को प्राप्त हुआ था।

[सं. एल- 26012/9/94-आईआर (विशेष)]

बी.एम. डैविड, डेस्क अधिकारी

New Delhi, the 7th April, 1998

S.O. 844.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Rourkela as shown, in the Annexure, in the industrial dispute between the employers in relation to the management of Raikela Tantra Bandhar Iron Ore Mines M/s. Jindal Strips Ltd., and their workman, which was received by the Central Government on 7-4-1998.

[No. L-26012/9/94-IR(Misc)]

B. M. DAVID, Desk Officer

ANNEXURE

IN THE COURT OF THE PRESIDING OFFICER :
INDUSTRIAL TRIBUNAL - ROURKELA

Industrial Dispute Case No. 57/97(C)

Dated the 16th March, 1998

PRESENT :

Shri R. N. Biswal, LL.M.,
(O.S.J.S. Sr. Branch),
Presiding Officer,
Industrial Tribunal,
Rourkela.

BETWEEN

Shri S. S. Mishra,
Contractor,
Raikela Tantra Bandhar Iron Ore Mines,
M/s. Jindal Strips Ltd.,
P.O. Tensa,
Distt. Sundargarh.

AND

The General Secretary,
Orissa Mineral Workers Union,
P.O. Barsua,
District Sundargarh.

IInd party

APPEARANCE :

For the Ist party...None

For the IInd party...None

AWARD

The Government of India in Ministry of Labour, Department in exercise of their power conferred under clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 have referred the following dispute vide reference No. L-26012/9/94-IR(Misc.) dated 12-1-95 for adjudication.

“Whether the action of the management of Shri S. S. Mishra, Contractor, Raikela Tantra Bandhar Mines of M/s. Jindal Strips Ltd., in terminating the services of Shri Bibhuti Mohanty, Supervisor, w.e.f. 16-7-93 is justified? If not, to what relief the workman is entitled to?”

2. The case was fixed on 5-3-98 for appearance of the parties. Since neither of the parties appeared before this Tribunal on that date, it can be presumed that, at present there is no dispute between them or they have amicably settled the dispute outside the Court in the mean time. Accordingly No Dispute Award is passed.

Dictated and corrected by me.

R. N. BISWAL, Presiding Officer

नई दिल्ली, 13 अप्रैल, 1998

का.आ. 845 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिनरल एक्सप्लोरेशन कारपोरेशन लि. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-4-1998 को प्राप्त हुआ था।

[सं. एल-29011/12/92-आईआर(विधि)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 13th April, 1998

S.O. 845.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mineral Exploration Corporation Ltd. and their workman, which was received by the Central Government on the 7-4-1998.

[No. L-29011/12/92-IR(Misc.)]

B. M. DAVID, Desk Officer

अनुबन्ध

केन्द्रीय औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर,
मध्य प्रदेश

डी० एन० दीक्षित

पीठासीन अधिकारी

प्र० कं० : सीजीआईटी/एलसी/आर/11/93

डी जनरल सेक्रेटरी,

मिनरल एक्सप्लोरेशन कार्पोरेशन एम्प्लॉयज यूनियन (एटक),
सेमीनरी हिल्स, नागपुर—440 006 प्राची

विरुद्ध

डी चेयरमेन-कम-मेनेजिंग डायरेक्टर,
मिनरल एक्सप्लोरेशन कार्पोरेशन लि.,
सेमीनरी हिल्स, नागपुर—440 006 प्रतिप्राची

अवार्ड

दिनांक : 24 मार्च, 1998

1. भारत सरकार, श्रम मंत्रालय, नई दिल्ली ने अपने आवेदन संख्या एल-29011/12/92-आई०आर० (मिस०) दिनांकित 7-1-93 के द्वारा निम्नलिखित विवाद निराकरण हेतु इस अधिकरण को भेजा है:—

SCHEDULE

"Whether the action of the management of Mineral Exploration Corporation Ltd., Nagpur in not regularising the services of S/Shri A. K. Janson and 2144 others (As per Annexure 'A' attached) and depriving them from all fringe benefits like perma-

nent workmen is justified? If not, to what relief the concerned workmen are entitled to and from what date?"

AND

"Whether the action of the management of MECL, Nagpur in not providing employment to Smt. Surya Gayee and 63 others (As per Annexure—'B' attached) as the legal heirs/dependents of deceased employees on compassionate grounds is justified? If not, to what relief are they entitled to and from what date?"

2. दोनों पक्षों को स्वीकार है कि प्रतिप्राची मिनरल एक्सप्लोरेशन कार्पोरेशन लिमिटेड भारत सरकार का संस्थान है और इसका कार्य खनिज सम्पत्ति का पता लगाना है। इसके अतिरिक्त यह कार्पोरेशन इन्फ्रास्ट्रक्चर साफ्ट सिटिंग और ट्यूबवेल खोदने का भी काम करती है। कार्पोरेशन कम्पनी एक्ट के अन्तर्गत पंजीकृत संस्थान है। कार्पोरेशन का कार्य भारत सरकार तथा इसके अधीनस्थ कम्पनी के आर्डर पर खनिज संस्थान का पता लगाने का है। प्रतिप्राची कम्पनी एक बार जब खनिज संस्थान का पता लगा लेती है तो प्रदेश सरकार या भारत सरकार या इनके संस्थान इस खनिज सम्पत्ति को दोहन करते हैं। कार्पोरेशन का कार्य केवल यह है कि वह पता करे कि कितनी खनिज सम्पत्ति किस स्थान पर और किस स्थिति में उपलब्ध है। कार्पोरेशन का कार्य देश के कई प्रांतों में अलग-अलग जगह पर लगातार चलते रहता है।

3. यूनियन के अनुसार कार्पोरेशन के कार्य में 90 प्रतिशत कार्य स्थाई स्वरूप का है और इसके लिए नियमित कर्मचारियों को नियुक्त करना आवश्यक है, किन्तु कार्पोरेशन केवल 40 प्रतिशत श्रमिकों को स्थाई पद देती है तथा बाकी का काम अस्थायी श्रमिकों से लेती है। कार्पोरेशन की इस नीति से अस्थायी कर्मचारियों को बहुत कम पारिश्रमिक में कार्य करना पड़ता है। अस्थायी श्रमिकों को परिवहन भत्ता, छुट्टियां, श्रृण, एडवांस और प्रमोशन इत्यादि नहीं मिलते। कार्पोरेशन इस प्रकार उसी कास के लिए भिन्न-भिन्न पारिश्रमिक अपने कर्मचारियों को देती है। यह स्थिति नियम और विधि के विपरीत है। कार्पोरेशन अनुचित श्रम नीति का अनुसरण करती है और अस्थायी कर्मचारियों का शोषण करती है। प्रतिप्राची कार्पोरेशन में वर्ष 89-90 में करीब 8,900 श्रमिक कार्यरत थे। पिछले 18 वर्षों में इसकी संख्या करीब 5,800 आती है। माननीय उच्चतम न्यायालय ने लम्बी अवधि तक अस्थायी श्रमिकों की नियुक्ति में कई निर्णयों में गम्भीर आपत्ति ली है। प्रतिप्राची कार्पोरेशन वर्षों तक श्रमिकों को अस्थायी रखती है। प्रतिप्राची कार्पोरेशन में 2 से लेकर 10 वर्ष तक के अस्थायी कर्मचारी हैं। जो भी काम वे अस्थायी कर्मचारी करते हैं, वही काम स्थायी कर्मचारी भी करते हैं। अस्थायी कर्मचारियों से जो कार्य लिया जाता है, वह कार्य कार्पोरेशन के कार्य के लिए आवश्यक है तथा उसके समाप्त होने की कोई सम्भावना नहीं है।

ऐसी स्थिति में भी अस्थाई कर्मचारियों को स्थाई नहीं किया जा रहा है तथा उनको कम वेतन और छुट्टी और अन्य सुविधाएं भी नहीं दी जाती हैं। कार्पोरेशन के अस्थाई कर्मचारियों को एक स्थान से दूसरे स्थान में स्थानान्तरण किया जाता है। इस प्रकार उनसे जो कार्य लिया जा रहा है, वह स्थाई है। प्रतिप्राप्ति कार्पोरेशन जब भी कोई नया काम लेती है तो पुराने प्रोजेक्ट से श्रमिकों को लाकर कार्य प्रारम्भ करती है। अस्थाई कर्मचारी एक स्थान से दूसरे स्थान पर कार्पोरेशन के आदेश से काम करते रहते हैं। प्रतिप्राप्ति कार्पोरेशन के कार्यस्थल में सुविधाओं की अत्यन्त कमी है और अस्थाई कर्मचारियों को अपने परिवार से दूर वर्षों तक कार्य करना पड़ता है। प्रतिप्राप्ति कार्पोरेशन के सभी प्रोजेक्ट 6 साल में पूर्ण हो जाते हैं। फिर भी अस्थाई श्रमिक ऐसे भी हैं, जो 10 साल से ज्यादा कार्पोरेशन के लिए कार्य कर रहे हैं। प्रतिप्राप्ति कार्पोरेशन में प्रबन्धन और श्रमिकों की कार्पोरेट लेवल, एरिया केवल और प्रोजेक्ट लेवल पर द्विपक्षीय कमेटी है। कार्पोरेट लेवल की कमेटी ने एक सब-कमेटी वर्ष 85 में बनाई, जिसने सम्पूर्ण अस्थाई कर्मचारियों के सम्बन्ध में जांच-पड़ताल की और रिपोर्ट दी। इस रिपोर्ट के अनुसार प्रतिप्राप्ति कार्पोरेशन में 7,211 श्रमिकों की आवश्यकता है। इस रिपोर्ट को प्रबन्धन ने स्वीकार किया तथा आफिसरों से सम्बन्धित प्रस्तावों को स्वीकार कर लिया। श्रमिकों की मांगों के बारे में पुनः जांच का काम नेशनल प्रोडक्टिविटी कौंसिल को प्रबन्धन ने दिया। इस प्रस्ताव से यूनियन सहमत नहीं थी। यूनियन की मांग नीचे लिखे अनुसार है:—

- (अ) सभी अस्थाई कर्मचारियों को स्थाई किया जाए।
- (ब) इन कर्मचारियों को भूतलक्षी प्रभाव से सभी अलाउंस और सुविधाएं दी जाएं।
- (स) अस्थाई कर्मचारियों को प्वाइन्ट टू प्वाइन्ट फिक्सेशन के द्वारा वार्षिक वेतन वृद्धि दी जाए।

4. जो भी श्रमिक कार्पोरेशन के सेवाकाल में स्वर्गवासी हुए हैं, उनके उत्तराधिकारियों को कार्य देना कार्पोरेशन की नैतिक जिम्मेदारी है। इस सम्बन्ध में यूनियन और प्रबन्धन में कई बार पत्राचार और बातचीत हुई, किन्तु फिर भी प्रबन्धन ने इस ओर ध्यान नहीं दिया। प्रबन्धन यह कहकर टाल जाता है कि रिक्त पद नहीं हैं, किन्तु इस तर्क से प्रबन्धन की जवाबदारी कम नहीं होती। इस सम्बन्ध में माननीय उच्चतम न्यायालय ने कई प्रकरण में दिशा निदेश दिए हैं। प्रबन्धन इस दिशा निर्देशों पर ध्यान नहीं देती। यूनियन चाहती है कि श्रमिकों के उत्तराधिकारियों को कार्य दिया जाए और इस हेतु प्रबन्धन को विशा-निर्देश दिए जाएं। यूनियन ने एनेक्जर-बी इस सम्बन्ध में प्रस्तुत किया है।

5. प्रबन्धन के अनुसार उनका कार्य दो प्रकार का है। पहला वह जिसमें स्थाई कर्मचारियों की आवश्यकता होती है। दूसरा वह जो कम अवधि के लिए और जिनका स्वरूप

गैर-तकनीकी होता है। गैर-तकनीकी कार्य के लिए साइट के आस-पास ही श्रमिकों को स्थाई स्वरूप से रखा जाता है तथा प्रोजेक्ट समाप्त होने पर इन्हें सेवा से पृथक किया जाता है। स्थाई कर्मचारियों की नियुक्ति के लिए कार्पोरेशन पूरे देश से आवेदन आमंत्रित करती है। इसके पश्चात् स्त्रीनिग कमेटी के माध्यम से नियुक्त किया जाता है। सेवा शर्तों में एक शर्त यह भी है कि इन्हे देश के किसी हिस्से में काम के लिए भेजा जाएगा। स्थाई कर्मचारियों को एक प्रोजेक्ट समाप्त होने पर दूसरे प्रोजेक्ट में भेजा जाता है। अस्थाई कर्मचारी एक प्रोजेक्ट समाप्त होने पर सेवा से पृथक किये जाते हैं। अस्थाई कर्मचारियों को दूसरे प्रोजेक्ट में नहीं भेजा जाता। प्रबन्धन और यूनियन के बीच इसी न्यायालय के प्रकरण क्रमांक: आर:16/79 में राजीनामा हुआ और 23-2-80 में अवार्ड दिया गया। यूनियन इस अवार्ड के पश्चात् वर्तमान विवाद नहीं उठा सकती। अस्थाई कर्मचारियों के सम्बन्ध में यूनियन और प्रबन्धन में विवाद हुआ तथा रीजेंटल लेबर कमीशनर (सेन्ट्रल), नागपुर के समक्ष दोनों पक्षों ने दिनांक 17-2-90 को समझौता किया। इस समझौते के अन्तर्गत भी वर्तमान विवाद यूनियन नहीं उठा सकती। प्रबन्धन चाहता है कि वर्तमान विवाद निराधार होने से निरस्त किया जाए।

6. मृतक श्रमिकों के उत्तराधिकारियों को काम देने के सम्बन्ध में प्रबन्धन का कहना है कि उसकी वित्तीय स्थिति बहुत कमजोर है। वर्ष 90-91 से 93-94 तक लगातार कार्पोरेशन करोड़ों रुपये का नुकसान उठा रहा है। जो भी कर्मचारी सेवारत स्वर्गवासी होता है, उनके उत्तराधिकारियों को वित्तीय सहायता दी जाती है। श्रमिकों के उत्तराधिकारियों को नौकरी देना सम्भव नहीं है।

7. श्रमिकों के उत्तराधिकारियों को नौकरी देने के सम्बन्ध में प्रबन्धन का यह कहना है कि उनकी वित्तीय हालत खराब है, इस कारण वे नौकरी देने में असमर्थ हैं। माननीय इलाहाबाद हाईकोर्ट ने दिनेश राय विरुद्ध डिस्ट्रिक्ट इन्स्पेक्टर ऑफ स्कूल, आजमगढ़ और अन्य के प्रकरण में जो 1991-एल-आईसी-739 में मुद्रित है, यह निर्धारित किया है कि मृतक कर्मचारी के स्थान पर उसके उत्तराधिकारी पुत्र को नौकरी देना प्रबन्धन के लिए अनिवार्य है। अगर कोई स्थान रिक्त नहीं है तो प्रदेश सरकार को नया पद बनाकर उत्तराधिकारियों को नौकरी देनी चाहिए। इस न्याय सिद्धान्त के प्रकाश में एम०ई०सी०एल० को जो भी श्रमिक उनकी सेवा में रहते हुए मृत होता है, उनके उत्तराधिकारियों को कार्य देना अनिवार्य है। अगर पद रिक्त नहीं है तो पदों का निर्माण भी प्रबन्धन को इस हेतु करना चाहिए।

8. श्रीमती सुपमा गोसाई और अन्य विरुद्ध भारत शासन और अन्य के प्रकरण में जो एआईआर-1989-सुप्रीमकोर्ट-पृष्ठ-1976 में मुद्रित है, माननीय उच्चतम न्यायालय ने यह प्रतिपादित किया है कि अनुकम्पा नियुक्ति

के प्रकरणों में शीघ्रातिशीघ्र उत्तराधिकारी को नियुक्त किया जाए। इस आशय से अनुकम्पा नियुक्ति दी जाती है कि मृतक के परिवार को आर्थिक परेशानियां न हों। इस कारण इस प्रकार की नियुक्तियां परेशान परिवार की सृविधा के लिए होने से शीघ्रातिशीघ्र देनी चाहिए। यह आपत्ति-जनक है कि इस प्रकार की नियुक्तियों में वर्षों की देर की जाए। अगर पद उपलब्ध न हो तो अनुकम्पा नियुक्ति के लिए पदों का निर्माण किया जाए।

9. श्री पाल गिगोले प्रबन्धन कार्पोरेशन के पर्सनल मैनेजर हैं। इन्होंने अपना शपथ-पत्र अनुकम्पा नियुक्ति के सम्बन्ध में प्रस्तुत किया है। इसकी कंडिका-12 में ये उल्लेख है कि चूंकि कार्पोरेशन की वित्तीय स्थिति कमजोर है, इस कारण अनुकम्पा नियुक्तियां देना सम्भव नहीं है। वर्तमान में प्रबन्धन कार्पोरेशन के पास अनुकम्पा नियुक्ति की योजना नहीं है। इसी कंडिका में यह भी कहा गया है कि जो श्रमिकों की संख्या है, वह काम के अनुपात से बहुत ज्यादा है। ऐसी स्थिति में भी पदों का निर्माण सम्भव नहीं है।

10. मृतक श्रमिक या कर्मचारी के स्थान पर उसके उत्तराधिकारी को नियुक्त करना प्रत्येक संस्थान का सामाजिक दायित्व है। जिस कर्मचारी ने वर्षों तक संस्थान की सेवा की, उसकी मृत्यु होने पर उसका परिवार आर्थिक बोझ से दब जाए, ऐसा किसी प्रकार भी उचित नहीं है। नैतिक रूप से और सामाजिक रूप से जिस संस्था में कर्मचारी काम करता है, यह उसका दायित्व है कि मृतक के परिवार के प्रति अपने दायित्व का निर्वहण करें और उनको सम्भल दें। इस प्रक्रिया में सबसे सक्षम सहायता यही हो सकती है कि मृतक के परिवार में से एक सदस्य को उसकी योग्यता के अनुसार पद दिया जाए। इस प्रकार के दायित्व की निभाने के लिए आर्थिक विपन्नता की बाधा नहीं होनी चाहिए। जैसाकि माननीय उच्चतम न्यायालय ने श्रीमती मुषमा गोसाई के प्रकरण में कहा है कि मृतक के परिवार के व्यक्ति को शीघ्रातिशीघ्र अनुकम्पा नियुक्ति देनी चाहिए और अगर यदि उपलब्ध पद न हो तो पद का निर्माण करके नियुक्ति देना चाहिए। इस न्याय सिद्धान्त के प्रकाश में अवार्ड दिया जाता है कि श्रीमती सूर्या गयी और 63 अन्य उत्तराधिकारियों को जिनके नाम का उल्लेख एनेक्जर-बी में है, अवार्ड गजट में मुद्रित होने के 3 माह के अन्दर उनकी योग्यता के अनुसार अनुकम्पा नियुक्ति दी जाए। अगर तीन माह में नियुक्ति नहीं दी जाती, तो ये सभी 64 व्यक्ति कार्पोरेशन के कर्मचारियों के अनुसार देन और शना पाने के अधिकारी होंगे।

11. यह आवश्यक है कि पहले यह निर्धारित हो कि श्रमिक से प्रबन्धन कार्पोरेशन किस प्रकार का कार्य लेना था तथा किन्तनी अवधि तक उनको अस्थाई कर्मचारी के रूप में रखा गया। अगर यन्त्रियन यह सिद्ध करती है कि जो काम अस्थाई कर्मचारी करते थे, वह स्थाई स्वरूप का है इसके समाप्त होने की कोई सम्भावना नहीं है और

वर्षों तक अस्थाई कर्मचारी उस काम को करते रहे तो उनके निष्कर्ष माननीय उच्चतम न्यायालय और उच्च न्यायालय द्वारा प्रतिपादित सिद्धान्तों के अनुसार निकाले जाएंगे।

12. मिनरल एक्सप्लोरेशन कार्पोरेशन लिमिटेड, म्रनिज का पता लगाने के लिए खूदाई देश के भिन्न-भिन्न भागों में करती है। आज की तारीख में इस कार्पोरेशन के पास 50 परियोजनाएं हैं। प्रकरण श्रम मंत्रालय जब भेजा गया तब अस्थाई कर्मचारी 2,145 थे। प्रबन्धन कार्पोरेशन के प्रोजेक्ट की अवधि सामान्य रूप से तीन से पांच वर्ष रहती है। प्रदर्श पी-8 पत्रिका प्रबन्धन कार्पोरेशन के द्वारा मुद्रित की गई है। इसमें यह उल्लेख है कि कार्पोरेशन के पास कितना काम है। जितने भी अस्थाई कर्मचारी हैं, इनमें से किसी को भी नियुक्ति आदेश नहीं दिया गया है। इन कर्मचारियों को प्रबन्धन कार्पोरेशन ने अलग-अलग प्रकार के नाम दिए हैं।

13. श्रमिक टीकाराम महतो के अनुसार यह 8-10-79 से काम कर रहा है। इसने अपनी साथी 28 कामगारों का विवरण प्रस्तुत किया, जो प्रदर्श पी-14 है। ये सभी कामगार 10 वर्षों से ज्यादा की सेवा कर चुके हैं। इन सभी लोगों से पीएफ, बीडीए की कटौती की जाती है। इन सभी कर्मचारियों को नियमित नहीं किया गया।

14. श्रमिक मनोज भुई ने शपथ-पत्र दिया है कि वह दिनांक 14-4-82 से काम कर रहा है। इनको अधोग्राम प्रोजेक्ट से दिनांक 13-10-90 की रानीगंज ईस्ट प्रोजेक्ट में ट्रांसफर पर भेजा गया। इनका और इनके साथियों का बर्बिस विवरण प्रदर्श पी-25 है। इनको अभी तक स्थाई नहीं किया गया है। इनको हायर स्केल दिया है।

15. श्रमिक श्री सुरेशकुमार राव ने अपने शपथ-पत्र में बताया है कि वह वर्ष 1983 से प्रबन्धन कार्पोरेशन का कर्मचारी है। इनके अन्य साथियों की नियुक्ति वर्ष 86 में हुई है। कामगार की सूची प्रदर्श पी-28 है। इनको उच्च श्रेणी और ज्यादा मजदूरी की अनुशंसा की गई है, जो इन्हें मिली। कई वर्षों से ये लोग स्कील्ड पदों पर काम कर रहे हैं। इनका लेख प्रदर्श पी-31 है। आज भी ये श्रमिक और इसके साथी स्थाई नहीं हैं।

16. श्रमिक विनयकुमार ने अपने शपथ-पत्र में कहा है कि प्रबन्धन कार्पोरेशन के पास आज 54 परियोजनाएं हैं, जिनका विवरण प्रदर्श पी-38 में है। इन योजनाओं में करीब 6,000 कर्मचारी कार्यरत हैं। इनमें से करीब 4,000 कर्मचारियों को अस्थाई रखा गया है। इन अस्थाई कर्मचारियों में ऐसे भी श्रमिक हैं जो 15—20 वर्ष से कार्य कर रहे हैं। प्रदर्श पी-39, 2,145 कर्मचारियों की सूची है, जिनको स्थाई करने के लिए वर्तमान प्रकरण प्रस्तुत किया गया है। कार्पोरेशन एक माह पूर्व छत्ती नोटिस नहीं देते। यह काम पहले बन्द करता है, नोटिस बाद में देता है। कुछ छटनी नोटिस प्रदर्श पी-46 से पी-55 है।

17. श्रमिक चितरंजन चौधरी ने अपने शपथ-पत्र में कहा है कि इनकी नियुक्ति प्रबन्धन कार्पोरेशन में 1-9-86 को हुई। इनके साथ जो अन्य साथी नियुक्त हुए, इनका आदेश प्रदर्श पी-7 है। ये सब भी वर्ष 85 या 86 में नियुक्त किए गए हैं। इन सभी को दूसरे प्रोजेक्ट में ट्रांसफर कर दिया है। इन कर्मचारियों को वेतन वृद्धि दी गई थी, जिसका लेख प्रदर्श पी-58 है। इस कर्मचारी ने पीएफ कटायी, जिसका लेख प्रदर्श पी-59, पी-60 है। इनकी पे-स्लीप की नकल प्रदर्श पी-61 है।

18. श्रमिक दामोदर पिपरशैंडे ने अपने शपथ-पत्र में कहा है कि इसने दिनांक 2-2-84 से बस्तर में ट्रक खलासी के रूप में कार्य प्रारम्भ किया। फरवरी, 86 से इनका स्थानान्तरण प्रबन्धन कार्पोरेशन के नागपुर मुख्यालय में किया गया। इनको समय-समय पर पदोन्नति दी गई और सुविधाएं दी गईं। इसे नियमित नहीं किया गया।

19. श्रमिक धरनी पाठक ने अपना शपथ-पत्र में कहा है कि इसे दिनांक 19-1-81 को प्रदर्श पी-79 के द्वारा नियुक्त किया गया। इसका ट्रांसफर बिहार से उड़ीसा किया गया। उड़ीसा में इन्हें पदोन्नत किया गया। दिनांक 1-4-79 से उसे स्कील्ड "ए" स्केल दिया गया। आज तक इन्हें नियमित नहीं किया गया। वर्ष 70 में इन्हें नियमित करने के लिए साक्षात्कार हेतु बुलाया गया। आदेश की नकल प्रदर्श पी-83 है। साक्षात्कार के बाद भी रिजल्ट नहीं बताया गया। मई, 97 में इसे निकाल दिया गया।

20. श्रमिक साधुमन ने अपने शपथ-पत्र में कहा है कि इसे प्रबन्धन कार्पोरेशन ने 1-2-82 को झील हेल्पर के पद पर छिन्दवाड़ा में नियुक्त किया। नियुक्ति पत्र प्रदर्श पी-63 है। 1-4-86 से उसे नया स्केल मिला। इसका आदेश प्रदर्श पी-86 है। इस कर्मचारी को प्रबन्धन कार्पोरेशन ने बिलावपुर मध्यप्रदेश, वर्ष 88 में ट्रांसफर पर भेजा। बिना नोटिस के इन्हें सेवा से पृथक् किया गया। जिस प्रोजेक्ट में यह श्रमिक कार्यरत था, वह अभी भी चालू है। इसके लेख प्रदर्श पी-68 और प्रदर्श पी-69 हैं। इनके जूनियर साथियों को स्थाई किया गया है।

21. श्रमिक आर० के० चावला ने अपने शपथपत्र में कहा है कि ये 5-10-77 को मेकेनिक के रूप में भर्ती हुए। नियुक्ति आदेश प्रदर्श पी-97 है। इनको अभी तक स्थाई नहीं किया गया।

22. श्रमिक राममिह पवार ने शपथ-पत्र दिया है कि इन्हें 16-12-86 को कार्पोरेशन ने प्रदर्श पी-92 के द्वारा नियुक्त किया। वर्ष 88 में इनका ट्रांसफर जिला छिन्दवाड़ा से जिला बिलासपुर किया गया। दिनांक 23-7-90 को बिहार के तारा प्रोजेक्ट में स्थानान्तरण किया गया। वर्ष 91 में कोतवा ट्रांसफर किया गया। अचानक 31-5-97 को नौकरी से निकाल दिया गया।

23. श्रमिक रामनरेण ने शपथ-पत्र दिया है कि उनकी नियुक्ति 2-11-79 को केम्प सयाल में झील हेल्पर के पद

पर प्रदर्श पी-101 के द्वारा की गई थी। इस प्रोजेक्ट से उसे 3 वर्ष बाद वर्ष 82 में धाधू प्रोजेक्ट में प्रदर्श पी-102 के द्वारा भेजा गया। जुलाई, 84 में इन्हें धाधू प्रोजेक्ट से अल्मोड़ा प्रोजेक्ट भेजा गया। जनवरी, 88 में इन्हें दूसरा नियुक्ति-पत्र दिया गया, जब यह लगातार कार्यरत था। अभी तक इन्हें स्थाई नहीं किया गया है।

24. श्रमिक नन्दकिशोर ने शपथ-पत्र दिया है कि इनकी नियुक्ति बीकानेर में झील हेल्पर के पद पर दिनांक 3-7-85 को की गई। नियुक्ति-पत्र प्रदर्श पी-107 है। इन्हें नियमित करने हेतु साक्षात्कार के लिए बुलाया गया, जिसका लेख प्रदर्श पी-109 है। इसकी छटनी 1-7-97 को की गई। इसके पहले इसे न तो नोटिस दिया गया और न ही मुआवजा दिया गया।

25. श्रमिक श्री परान राउथ ने अपने शपथ-पत्र में कहा है कि इसे दिनांक 1-4-83 को रानीगंज प्रोजेक्ट में नियुक्त किया गया। नियुक्ति-पत्र प्रदर्श पी-114 है। रानीगंज से इसका ट्रांसफर छत्तापुरी किया गया। यह आज भी ड्राइवर के पद पर कार्य कर रहा है, किन्तु इसे ड्राइवर का वेतन नहीं दिया जा रहा है। इसका लेख प्रदर्श पी-115 है। इन्हें आज तक नियमित नहीं किया गया।

26. श्रमिक प्रशान्त कृष्ण सरकार ने अपने शपथ-पत्र में कहा है कि ये दिनांक 7-6-86 को कलकत्ता के पद पर कलकत्ता कार्यालय में नियुक्त किया गया। नियुक्ति पत्र प्रदर्श पी-121 है। जुलाई, 87 से इन्होंने नागपुर में काम करना प्रारम्भ किया। इनका आदेश प्रदर्श पी-123 है। वर्ष 89 में इनको पुनः कलकत्ता कार्यालय में ट्रांसफर किया गया। इनका आदेश पी-124 है। इनको भी रेगुलर पद हेतु साक्षात्कार के लिए बुलाया गया, किन्तु इसका निर्णय आज तक नहीं हुआ। इनको प्रतिमास पे-स्लीप दी जाती है और पीएफ भी काटा जाता है। इनको अभी तक स्थाई नहीं किया गया।

27. श्रमिक शिवराम ने अपने शपथ-पत्र में कहा है कि इनकी नियुक्ति 1-7-81 को स्वील्ड-बी कैटेगरी में अष्टनाचल प्रदेश में की गई। इसका नियुक्ति-पत्र प्रदर्श पी-133 है। वर्ष 87 में इनको क्षेत्रीय कार्यालय, कलकत्ता और इसके पश्चात् चान्दा में और इसके पश्चात् उड़ीसा में भेजा गया। 11-7-90 को इनको मुर्गम मेघालय भेजा गया और वहां से कान्दा भेजा गया। इनके ट्रांसफर आदेश प्रदर्श पी-136, 137 और 138 हैं। इनको टेक्निशियन ग्रेड-2 के लिए साक्षात्कार के लिए बुलाया गया। इनका लेख प्रदर्श पी-139 है। इनको आज तक स्थाई नहीं किया गया।

28. श्रमिक टी० सी० थामस ने अपने शपथ-पत्र में कहा है कि दिनांक 6-10-80 को इनको नागर परियोजना में झील हेल्पर नियुक्त किया गया। नियुक्ति-पत्र प्रदर्श पी-140 है। वहां से इनका ट्रांसफर लफंगवा किया गया। जिसके लेख प्रदर्श पी-141 हैं। उनको पदोन्नति दी गई, जिसका

आदेश प्रदर्श पी-142 है। इनको भी साक्षात्कार के लिए बुलाया गया, किन्तु इनका रिजल्ट नहीं बनाया गया। आज तक ये स्थाई कर्मचारी नहीं हैं।

29. श्रमिक आसित कुमार पाठक ने अपने शपथ-पत्र में कहा है कि इन्हें दिनांक 24-11-80 को घनबाद में डील हेल्पर के पद पर नियुक्त किया गया। इनका नियुक्ति आदेश प्रदर्श पी-147 है। इसके बाद इनको वर्ष 84 में सेमी-स्कील्ड पद मिला। इसका लेख प्रदर्श पी-150 है। इनका ट्रांसफर कई जगह किया गया। इनके आदेश प्रदर्श पी-151 है। इनके वेतन से जीपीएफ काटा जाता है। 1-4-89 से इनको स्कील्ड "ए" ग्रेड दिया गया। इनके लेख प्रदर्श पी-155 है। इन्हें 4-8-97 को नौकरी से निकाला गया। इसके लिए इन्हें न तो नोटिस दिया गया और न मुआवजा दिया गया।

30. श्रमिक चन्द्रशेखर महतो के अनुसार इनको दिनांक 1-7-81 को घनबाद में नियुक्त किया गया। इसके लेख प्रदर्श पी-160 है। इसके बाद इनको दो तबादले किए गए, जिनके लेख प्रदर्श पी-161 एवं 162 हैं। इनको पदोन्नति दी गई, जिसके लेख प्रदर्श पी-163 हैं। इनको अभी तक स्थाई नहीं किया गया।

31. श्रमिक श्री आनंद कुमार तिवारी ने अपने शपथ पत्र में कहा है कि उन्होंने कई वर्षों तक प्रबन्धन कार्पोरेशन की नौकरी की। इनको 17-1-97 को निकाल दिया गया। काम रहते हुए भी श्रमिकों को निकाला गया। इनको एक परियोजना से दूसरी परियोजना में भेजा गया। इसके लेख प्रदर्श पी-176, 177 और 178 हैं। इनको काम से निकाले जाने के पूर्व नोटिस नहीं दिया गया और न ही मुआवजा दिया गया।

32. श्रमिक छोटे प्रसाद ने शपथ-पत्र में कहा है कि इनकी नियुक्ति 22-10-81 को डील हेल्पर के पद पर की गई। नियुक्ति आदेश प्रदर्श पी-179 है। इनके कई ट्रांसफर किए गए, जिनके आदेश प्रदर्श पी-181, 182 हैं। इनको समय-समय पर पदोन्नति दी गई है, जिनके आदेश प्रदर्श पी-183, प्रदर्श पी-184 हैं। इस श्रमिक से कार्य स्कील्ड लेबर का लिया जाता है, किन्तु भुगतान दैनिक वेतन भोगी के समान किया जाता था। इन्हें दिनांक 16-5-97 को बिना नोटिस और मुआवजा के निकाल दिया गया।

33. उपरोक्त शपथ-पत्रों में दिए गए तथ्यों की विवेचना पर नीचे लिखा निष्कर्ष निकलता है:—

(क) वर्षों से अस्थाई कर्मचारी कार्पोरेशन में कार्यरत हैं। इनमें से कुछ कर्मचारी तो वर्ष 79 से अभी तक कार्य कर रहे हैं।

(ख) इन अस्थाई कर्मचारियों को एक स्थान से दूसरे स्थान पर इस अवधि में स्थानान्तरण पर भेजा गया है।

(ग) इन अस्थाई कर्मचारियों को प्रमोशन दिए गए हैं।

(घ) इन सभी अस्थाई कर्मचारियों को नियमित वेतन नहीं दिया जा रहा है। बल्कि दैनिक मजदूरी दी जा रही है।

(ङ) इन अस्थाई कर्मचारियों को अन्य भत्ते तथा छुट्टियों की सुविधा नहीं है।

(च) इन सभी अस्थाई कर्मचारियों के वेतन से प्रबन्धन-निधि की राशि काटी जा रही है।

(छ) जिन पदों पर अस्थाई कर्मचारियों को रखा गया है, उनके अलग-अलग नाम प्रबन्धन में दिए हैं।

(ज) बिना नोटिस और हजनि के पुराने अस्थाई कर्मचारियों को काम से अलग कर दिया जाता है।

(झ) इन सभी कर्मचारियों को वार्षिक वेतन बढ़ि नहीं दी जाती।

34. प्रबन्धन मिनरल एक्सप्लोरेशन कार्पोरेशन लिमिटेड के काम का स्वरूप यह है कि ये देश के भिन्न-भिन्न भागों में प्रोजेक्ट मिलने पर खनिज का पता लगाने हेतु कार्य करते हैं। सामान्य रूप से एक प्रोजेक्ट तीन से पांच वर्ष में पूर्ण हो जाता है। इस प्रकार कार्पोरेशन की वर्ष 95-96 की रिपोर्ट के अनुसार इस वर्ष उसके पास 50 काम थे। कार्पोरेशन 1972 से यही कार्य कर रही है। कार्पोरेशन स्थाई है और लगातार काम कर रहा है। एक प्रोजेक्ट समाप्त होने पर दूसरे प्रोजेक्ट में काम चलता रहता है। ऐसा प्रतीत नहीं होता कि कार्पोरेशन का कार्य समाप्त हो जावेगा।

35. अस्थाई कर्मचारी जो काम कर रहे हैं, वह स्थाई स्वरूप का है। स्कील्ड वर्कर का कार्य भी अस्थाई कर्मचारियों से लिया जाता है और उनके कार्य के अनुसार इन्हें श्रेणी में भी पदोन्नति दी जाती है। जो वेतन कुशल श्रमिकों को दिया जाता है, वह दैनिक मजदूरी की दर से है। इस प्रकार जो कार्य अस्थाई कर्मचारी कर रहे हैं, उसके अनुपात में उनको पारीश्रमिक बहुत कम दिया जाता रहा है।

36. प्रदर्श पी-179 वर्ष 95-96 की कार्पोरेशन की वार्षिक रिपोर्ट है। प्रदर्श पी-180 मई-जून, 97 का कार्पोरेशन का पत्र मेक समाचार है। इसके अवलोकन से यह ज्ञात होता है कि कार्पोरेशन के पास पर्याप्त काम है और उसकी वित्तीय स्थिति सन्तोषजनक है। ऐसी स्थिति में वर्षों तक कार्यरत अस्थाई कर्मचारियों को स्थाई न करना चिन्ता की बात है। कार्पोरेशन की ओर से यह तर्क प्रस्तुत किया गया कि औद्योगिक न्यायालय को कर्मचारियों को स्थाई करने का आदेश देने का अधिकार नहीं है। इस तर्क की पुष्टि में हरियाणा शासन विरुद्ध प्यारसिंह और अन्य का न्याय सिद्धान्त प्रस्तुत किया गया, जो 1992 (4)-एससीसी-पृष्ठ-118 में सुवित्र है। इस न्याय सिद्धान्त के तथ्य और वर्तमान प्रकरण के तथ्य भिन्न हैं। इस न्याय सिद्धान्त की कॉडिका-49 में माननीय उच्चतम न्यायालय ने शिक्षा है कि जहाँ पर अस्थाई कर्मचारी काफी लम्बी अवधि

तक कार्यरत हों, वहाँ उनके वरिष्ठ अधिकारियों को उसके स्थाईकरण के बारे में विचार करना आवश्यक है। इसके लिए केवल यह देखना है कि उसका कार्य सन्तोषप्रद रहा और आरक्षण के आदेश का उल्लंघन नहीं हुआ। इस प्रकार माननीय उच्चतम न्यायालय ने ही यह प्रतिपादित किया है कि जहाँ पर अस्थायी कर्मचारी काफी वर्षों से कार्यरत हैं, वहाँ उसके कार्य की समीक्षा के पश्चात् उसे स्थाई किया जावेगा।

37. जैसा कि ऊपर कहा गया है, कार्पोरेशन में कार्यरत कर्मचारी देश के प्रत्येक प्रान्त में सभ्यता से दूर और सुविधाओं से दूर रहकर कार्य करते हैं, उनको स्वास्थ्य और निवास की वे सुविधाएँ नहीं उपलब्ध हैं, जो उन्हीं के समकक्ष अन्य श्रमिकों को उपलब्ध हैं। प्रोजेक्ट में कार्य करते समय श्रमिक परिवार से दूर रहते हैं तथा हर प्रकार की असुविधाओं को सहते हुए कार्य करते हैं। इन विशेष परिस्थितियों में इन कर्मचारियों को स्थाई करना ही न्याय हित में है।

38. कर्मचारियों को स्थाई करते समय यह विचार आवश्यक है कि वे अपने कार्य में कुशल हों तथा वे मिल-जुलकर कार्य करने में सक्षम हैं। यह भी आवश्यक है कि न्यूनतम सेवा निर्धारित कर दी जाए। यह भी निर्धारित किया जाए कि वे किस दिनांक से स्थाई होने के पात्र हैं।

39. वर्तमान रिक्रेंश दिनांक 7-1-93 को भेजा गया है। इस दिनांक तक जिन अस्थायी कर्मचारियों ने तीन वर्ष मिनरल एक्सप्लोरेशन कार्पोरेशन की एक या एक से ज्यादा प्रोजेक्ट में काम कर लिया हो, उनको ही स्थाई करना उचित होगा। एक वर्ष में 240 दिन काम करने की अनिवार्यता रहेगी। वे ही श्रमिक स्थाई किए जायेंगे, जो औसत श्रेणी के श्रमिक होंगे तथा जिनका व्यवहार और चाल-चलन उत्तम होगा।

40. महत्वपूर्ण बात यह है कि किस दिनांक से श्रमिक को स्थाई किया जाए और किस प्रकार वरियता निर्धारित की जाए। मैं यह समझता हूँ कि अवार्ड प्रकाशित होने के दिनांक से श्रमिकों को स्थाई किया जाए और सेवा की अवधि के हिसाब से उनको वरियता दी जाए।

41. नीचे लिखे दिशा-निर्देश देना आवश्यक प्रतीत होता है :—

- (क) दिनांक 7-1-93 को श्रमिक ने एक या ज्यादा प्रोजेक्ट में तीन वर्ष की सेवा पूर्ण कर ली है।
- (ख) प्रत्येक वर्ष में उसने कम से कम 240 दिन कार्य किया है।
- (ग) श्रमिक अपने काम में कुशल है।
- (घ) श्रमिक का आचरण और व्यवहार उत्तम है।
- (ङ) कार्य अवधि के अनुसार श्रमिक को वरियता दी जाए।

42. अवार्ड दिया जाता है कि उपरोक्तानुसार अस्थायी कर्मचारियों को स्थाई किया जाए। यह कार्य गजट में अवार्ड मुद्रित होने के तीन महीने के अन्दर किया जाए। गजट में अवार्ड मुद्रित होने की दिनांक से सभी श्रमिक कार्पोरेशन के नियमों के अनुसार वार्षिक वेतन वृद्धि, वेतनमान, भत्ते, छुट्टियों की सुविधा और चिकित्सा सुविधा पाने के अधिकारी रहेंगे। जिन श्रमिकों के नाम एनेक्जर "ए" में मुद्रित हैं, उनके ही नाम पर स्थाईकरण के लिए विचार होगा। सभी सुविधाएँ इन श्रमिकों को मिनरल एक्सप्लोरेशन कार्पोरेशन लिमिटेड की सेवाशर्तों और नियमों के अनुसार ही मिलेंगी। दोनों पक्ष इस प्रकरण का अपना-अपना भार वहन करें।

43. नियमानुसार अवार्ड की प्रतियाँ भारत सरकार, श्रम मंत्रालय, नई दिल्ली को प्रेषित की जाती हैं।

डी० एन० दीक्षित, पीठासीन अधिकारी
नई दिल्ली, 7 अप्रैल, 1998

का.आ. 846.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 8 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार श्री बी. बी. चटर्जी पीठासीन अधिकारी, केन्द्रीय सरकार औद्योगिक न्यायाधिकरण-सह-श्रम-न्यायालय सं. 2 धनबाद को वर्तमान प्रभार के अलावा केन्द्रीय सरकार औद्योगिक न्यायाधिकरण-सह-श्रम-न्यायालय सं. 1 धनबाद के पीठासीन अधिकारी के रूप में उनके इस अतिरिक्त कार्यभार ग्रहण करने के बाद से तीन माह की अवधि के लिए अन्यथा नियमित पदधारी की नियुक्ति होने तक, जो भी पहले हो, नियुक्त करती है।

[फा. सं. ए-11016/2/95-सी एन एम-II]
पी. पी. मित्रा, निदेशक

New Delhi, the 7th April, 1998

S.O. 846.—In exercise of the powers conferred by Section 8 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby appoints Shri B. B. Chatterjee, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, No. 2, Dhanbad as the Presiding Officer of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad in addition to his present charge for a period of three months from his taking over the additional charge or till the appointment of the regular incumbent, whichever is earlier.

[F. No. A-11016/2/95-CLS. II]
P. P. MITRA, Director

नई दिल्ली, 7 अप्रैल, 1998

का.आ. 847.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, भारत के राजपत्र असाधारण

भाग-II, खंड 3(ii) में दिनांक 8 जून 1995 को प्रकाशित भारत सरकार, श्रम मंत्रालय की अधिसूचना सं. का.आ. 509(अ). दिनांक 8 जून, 1995 में निम्नलिखित संशोधन करती है।

उक्त अधिसूचना में धारा 4 के खंड (क) के अंतर्गत केन्द्रीय सरकार द्वारा नियुक्त शीर्षक के तहत क्रम संख्या-1 के सामने प्रविष्टियों के स्थान पर निम्नलिखित प्रविष्टियाँ प्रतिस्थापित की जायेंगी अर्थात् :

केन्द्रीय श्रम मंत्री, भारत सरकार

[सं. यू-16012/2/95-एस.एस.-I]

जे. पी. शुक्ला, अवर सचिव

New Delhi, the 7th April, 1998

S.O. 847.—In exercise of the powers conferred by Section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour No. S.O. 509(E) dated the 8th June, 1995 published in the Gazette of India, Extraordinary, Part II, Section 3(ii) dated the 8th June, 1995 :—

In the said notification under the heading "Appointed by the Central Government under clause (a) of Section 4" for the entries against Serial No. 1, the following entries shall be substituted, namely :—

"Union Labour Minister,
Government of India,
New Delhi."

[No. U-16012/2/95-SS. I]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 7 अप्रैल, 1998

का.आ. 848 —. केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द) के उपखंड (6) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 2872 दिनांक 21 अक्टूबर, 1997 द्वारा दिल्ली बुध योजना को उक्त अधिनियम के प्रयोजनों के लिए 24 अक्टूबर, 1997 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था ;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (द) के उपखंड (6) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 24 अप्रैल, 1998 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[का.सं. एस-11017/7/97-आई.आर.(नीति विधि)]

एच. सी. गुप्ता, अवर सचिव

New Delhi, the 7th April, 1998

S.O. 848.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 of the Industrial Dispute Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 2872 dated 21st October, 1997 the industry for the supply of milk under the Delhi Milk Scheme to be a public utility service for the purpose of the said Act, for a period of six months from the 24th October, 1997;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 24th April, 1998.

[No. S-11017/7/97-IR(PL)]

H. C. GUPTA, Under Secy.

नई दिल्ली, 15 अप्रैल, 1998

का.आ. 849:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी.पी.डी.टी. नई दिल्ली के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-42011/31/96-आई.आर. (डी.यू.)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 15th April, 1998

S.O. 849.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of CPWD, New Delhi and their workman, which was received by the Central Government on 13-4-98.

(F. No. L-42011/31/96-IR (DU))

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 176/97

In the matter of dispute :

BETWEEN :

Shri Satish Kumar through,
The Genl. Secretary, CPWD Mazdoor Union,
E-26, (Old Qtr.), Raja Bazar,
Baba Khark Singh Marg, N. Delhi.

Versus

The Superintending Engineer,
Co-ordination Circle (Civil),
CPWD, I. P. Bhawan, New Delhi.

APPEARANCES :

None.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42011/31/96-IR(DU) dated 14-10-97 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the proposed action of the management of CPWD-Superintending Engineer, Coordination Circle, (Civil) in reverting Sh. Satish Kumar Work Asstt. from the post of Work Asstt. to Beldar w.e.f. 7-7-95 is justified ? If not, what relief the concerned workman is entitled to ?"

2. Shri B. K. Prasad appeared on behalf of the workman on 16-12-97 and on 17-2-98 one Virender Singh appeared on behalf of the workman. Statement of claim was not filed on any of the two dates but in the interest of justice date 24-3-98 was given for filing of the statement of claim. On that date nobody appeared nor filed statement of claim. It appears that neither workman nor his representative was interested in pursuing this dispute and there exist no dispute between the parties. No dispute award is given in this case leaving the parties to bear their own costs.

25th March, 1998.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 15 अप्रैल, 1998

का०आ०. 850 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, कौन्ट बोर्ड, मेरठ के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-13012/2/90-आई०आर० (डी यू.)]

के०बी०बी० उष्णी, डैस्क अधिकारी

New Delhi, the 15th April, 1998

S.O. 850.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi, as shown in the Annexure in the industrial dispute between the employers in relation to the management of Cantt. Board, Meerut and their workman, which was received by the Central Government on 13-4-98.

[F. No. L-13012/2/90-IR(DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 11/91

In the matter of dispute :

BETWEEN :

Shri Akhilesh Chand Bansal,
S/o. Shri Kishan Chand Bansal,
through Hind Mazdoor Sabha,
1, Bogum Bagh, Meerut (U.P.).

Versus

Cantonment Board,
Meerut Cantt, U.P.

APPEARANCES :

None—for the workman.
Shri Shyam Lal—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-13012/2/90-IR. (D.U.) dated 31-1-91, 4-2-91 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the action of the management of Cantt. Board, Meerut in terminating the services of Shri Akhilesh Chand Bansal. S/o Shri Kishan Chand Bansal w.e.f. 1-12-89 (A.N.) is justified. If not, to what relief the concerned workman is entitled to ?"

2. Parties to the dispute at the time of arguments settled the dispute and a statement was made to the effect that the workman Akhilesh Chand Bansal has since been appointed to the post of ward boy and he has resumed his duties on 13-1-98. The affidavit of the workman was also filed to this effect. In view of this situation no dispute exists between the parties and party shall remain bound by the terms of the settlement arrived at by them. No dispute award is given in this case leaving the parties to bear their own costs.

23rd March, 1998.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 15 अप्रैल, 1998

का०आ० 851 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन इन्स्टिट्यूट ऑफ पल्स रिसर्च, कानपुर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-42012/161/96-आई०आर० (डी यू.)]

के०बी०बी० उष्णी, डैस्क अधिकारी

New Delhi, the 15th April, 1998

S.O. 851.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Institute of Pulse Research, Kanpur and their workman, which was received by the Central Government on 13-4-98.

[F. No. L-42012/161/96-IR (DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA, PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT DEOKI PALACE ROAD, PANDU NAGAR KANPUR

Industrial Dispute No. 197 of 1997

In the matter of dispute :

BETWEEN :

Smt. Ganga W/o Chaturth,
115/310 Maswanpur,
P.O. Rawatpur Gaon,
Kanpur.

AND

Director,

Indian Institute of Pulse Research,
Kalyanpur,
G. T. Road Kanpur.

AWARD

1. Central Government Ministry of Labour New Delhi vide its Notification No. L-42012/161/96 IR(DU) dated 19-9-97 has referred the following dispute for adjudication to this Tribunal :

Whether Smt. Ganga W/o Chaturth can be treated as an employee of Indian Institute of Pulse Research Kanpur and if so whether the termination of her employment w.e.f. 5-3-96 is just and legal ? If not, to what relief is she entitled to ?

2. It is unnecessary to give the details of case as after sufficient opportunity the concerned workman has not file the claim statement. Hence the reference is answered against the workman for want of prosecution and proof and he is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 15 अप्रैल, 1998

का०आ० 852:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन इन्स्टिट्यूट ऑफ पल्स रिसर्च, कानपुर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-42012/150/96-आई०आर० (डी यू)]
के०वी०बी० उष्णी, डैस्क अधिकारी

New Delhi, the 15th April, 1998

S.O. 852.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Institute of Pulse Research, Kanpur and their workman, which was received by the Central Government on 13-4-1998.

[F. No. L-42012/150/96-IR (DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT DEOKI PALACE ROAD PANDU NAGAR KANPUR

Industrial Dispute No. 190 of 1997

In the matter of dispute :

BETWEEN

Smt. Siya Dulari W/o Shri Ram Jiwan
2-A Mama Talab Maswanpur
P.O. Rawatpur Gaon
Kanpur.

AND

Director
Indian Institute of Pulse Research
Kalyanpur G.T. Road Kanpur.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-42012/158/96-IR (DU) dated 19-9-97 has referred the following dispute for adjudication to this Tribunal :

Whether Smt. Siya Dulari W/o Ram Jiwan can be treated as an employee of Indian Institute of Pulse Research, Kanpur and if so whether the termination of her employment w.e.f. 5-3-96 is just and legal ? If not, to what relief is she entitled to ?

2. It is unnecessary to give the details of the case as after sufficient opportunity the concerned workman has not file claim statement. Hence the reference is answered against the workman for want of prosecution and proof and he is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 15 अप्रैल, 1998

का०आ० 853:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी०पी०डब्ल्यू०डी० डिब्बजन-1, देहरादून के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-42012/100/95-आई०आर० (डी यू)]
के०वी०बी० उष्णी, डैस्क अधिकारी

New Delhi, the 15th April, 1998

S.O. 853.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of CPWD, Division-I, Dehradun and their workman, which was received by the Central Government on 13-4-1998.

[F. No. L-42012/100/95-IR (DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT DEOKI PALACE ROAD PANDU NAGAR KANPUR

Industrial Dispute No. 63 of 1996

In the matter of dispute :

BETWEEN

Rajiv Kumar Bhatnagar
S/o A. N. Bhatnagar
R/o S.B.C. 139 Yamuna Colony
Dehradun.

AND

Executive Engineer
Central Public Works Department
Division No. 1
20 Subhash Road
Dehradun.

APPEARANCES :

Shri M. C. Pant—for the workman.
Shri V. K. Gupta—for the management.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-42012/108/95-I.R. (DU) dated 27-6-96 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of CPWD Divn. I Dehradun in terminating the services of Shri Rajeev Kumar Bhatnagar is just and legal? If not, to what relief the workman is entitled to?

2. It is unnecessary to give the details of the case as on 29-1-98 Au. Rep. of concerned workman stated that he has no instructions. Hence the reference is answered against the workman for want of prosecution and proof and he is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 15 अप्रैल, 1998

का०आ० 854 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कैंट बोर्ड, लखनऊ के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-13011/2/97-आई०आर० (डी यू)]

के०वी०बी० उष्णी, डेस्क अधिकारी

New Delhi, the 15th April, 1998

S.O. 854.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Cantonment Board, Lucknow and their workman, which was received by the Central Government on 13-4-98.

[F. No. L-13011/2/97-IR (DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI B. K. SRIVASTAVA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT DEOKI PALACE ROAD PANDU NAGAR KANPUR

Industrial Dispute No. 220 of 1997

In the matter of dispute :

BETWEEN

General Secretary

Zila Trade Union Council (INTUC) Guljar Nagar
P.O. Rajendra Nagar Lucknow.

AND

The Cantonment Executive Officer
Cantonment Board,
Lucknow.

AWARD

1. Central Government, Ministry of Labour, New Delhi vide its Notification No. L-13011/2/97-IR (DU) dated 27-10-97 has referred the following dispute for adjudication to this Tribunal :

Whether Shri Phool Chand workman has completed 395 days continuous service from 1-1-89 to 31-10-90 with the management of Cantonment Board Lucknow? If so he is entitled to what relief?

2. It is unnecessary to give the details of the case as after sufficient opportunity the concerned workman has no file claim statement. Hence the reference is answered against the workman for want of prosecution of proof and he is not entitled for any relief.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 15 अप्रैल, 1998

का०आ० 855 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फोरस्ट रिसर्च इंस्टीट्यूट, देहरादून के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-42012/76/92-आई०आर० (डी यू)]

के०वी०बी० उष्णी, डेस्क अधिकारी

New Delhi, the 15th April, 1998

S.O. 855.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Forest Research Institute Dehradun and their workman, which was received by the Central Government on 13-4-1998.

[No. L-42012/76/92-IR (DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NEW DELHI

I. D. No. 41/93

In the matter of dispute :

BETWEEN

Shri Kalyan Singh Mali,
r/o Bangla No. 2, F.R.I.,
New Forest, P.O. F.I.R. Dehradun-248001.

Versus

Upkal Sachiv,

Van Anusandhan Sansthan,
Bhartiya Vankya Anusandhan Kendra Avam
Shiksha Parishad, P.O. New Forest,
Dehradun-248001.

APPEARANCES :

Shri Virender Bhandari—for

Shri Jog Singh—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/76/92-I.R. (DU) dated 14-5-93 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the action of the management of Forest Research Institute, Dehradun in terminating the services of Shri Kalyan Singh, Mali w.e.f. 4-10-91 is legal and justified? If not, what relief the workman concerned is entitled to?"

2. The workman during the pendency of the dispute had died. The representative of the workman made statement that since the workman had died he did not insist upon the dispute and his legal heirs be paid whatever amount was due to him according to rules. Representative for the Management also made statement that legal dues if any will be paid to the legal heirs of the deceased within 3 months after receiving the application from the legal heirs. In view of this situation there exists no dispute between the parties. Management shall, however, pay the legal dues, if any, to the legal heirs of the workman/deceased. The legal heirs can approach by filing an application to this effect. Parties are left to bear their own costs.

Dated : 30th March, 1998.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 2 अप्रैल, 1998

का.भा. 856 :--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. ई.सी.एल. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-98 को प्राप्त हुआ था।

[सं.एल.-19012/67/86-डी IV (बी)/आई.आर.(सी-I)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 2nd April, 1998

S.O. 856.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. E.C.L. and their workman, which was received by the Central Government on 2-4-1998.

[No. L-19012/67/86-D.IV (B)/IR (C-I)]

AJAY KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 2 of 1988

PARTIES :

Employers in relation to the management of Poidih Colliery of M/s. Eastern Coalfields Limited

AND

Their workmen.

PRESENT :

Mr. Justice A. K. Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of Management—Mr. P. Banerjee, Advocate.

On behalf of Workmen—Mr. A. K. Das, Advocate.

STATE : West Bengal

INDUSTRY : Coal

AWARD

By Order No. L-19012/67/86-D.IV (B) dated 15th January, 1987 the Central Government, in exercise of its

powers under Section 10(1)(d) and (2-A) of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication.

"Whether the action of the Management of Poidih Colliery of M/s. E.C. Ltd. [A Unit of Sodepur (R) Colliery] in not correcting the date of birth of Shri Sahadeo Roy, Lamp Cabin Incharge as 28th September, 1928 on the basis of Gas Testing Certificate dated 7th March, 1969 granted by the Chairman of the Board of Mining Examination is justified? If not, to what relief the workman is entitled?"

2. Colliery Mazdoor Sabha of India (CITU) has raised this dispute in respect of determination of age of Shri Sahadeo Roy, Lamp Cabin Incharge.

3. The union's case in this matter, in short, is that the concerned workman had been working before nationalisation of the Coal Mines under Bengal Coal Company and as per provisions of the Mines Act, all particulars, including age/date of birth was recorded in the Form-B Register where he put his signature. His date of birth at the time of his initial appointment was entered as 28th September, 1928. After nationalisation in 1973, the management opened-up a new Form-B Register and obtained signatures of the workmen in the said Register, leaving column of age/date of birth blank assuring that the same would be filled-up after looking into and comparing with the old Form-B Register of the erstwhile employer. The workmen signed the said register in good faith. Subsequently, in the later part of 1985 the workman first came to know that his year of birth was wrongly recorded in the Form-B Register of the management as 1926. The workman approached the management for rectification of his date of birth as 28-9-1928, but nothing was done in the matter. The union has also alleged that his date of birth is 28-9-1928 is confirmed by the Gas Testing Certificate issued in favour of the workman by the Department of Mins Safety, Government of India and the age recorded there was recorded as per Form-B Register of the erstwhile employer. The workman having made to retire from service illegally on 1-6-1986 instead of 27-9-1988, the workman referred the matter to his union and the union has raised the dispute praying for his reinstatement immediately with full back wages and fringe benefits.

4. In the written statement filed by the management it is alleged that in Form-B Register maintained under the provisions of Mines Act, 1952 the management has duly recorded the age of the concerned workman and it was signed by him. The workman also signed Identity Card Issue Register opened in 1980 and he was issued Identity Card with photograph showing therein his particulars, including his age and date of appointment. The age of superannuation being 60 years and no specific date of birth having been mentioned in the Form-B Register, the workman was made to retire on the middle of the year as per circulars issued by the management from time to time. Further the matter concerning the age cannot be reported as per agreed decision of the Joint Bipartite Committee of 1981 as there was no variation of the date of birth. It is also alleged that the age recorded in the Gas Testing Certificate is palpably wrong as that will render the age of entry of the concerned workman in the mining service below 18 years, which is not permissible under the Mines Act. The management also denied that the Form-B Register was left blank. The management has accordingly prayed for dismissal of the claim of the union.

5. Heard Mr. Banerjee, learned Advocate appearing for the management and Mr. Das, learned Advocate appearing for the union.

6. Management's case, in justification of the age recorded by them, is mainly based on three documents, namely, Form-B Register, Identity Card Issue Register and the Service Card issued by the erstwhile employer, marked Exts. M-1, M-2 and M-3 respectively. Management also examined one witness. Apart from examining the concerned workman, the union also has filed certain documents, but special reliance is placed on the Gas Testing Certificate issued by the Dept. of Mines Safety (Ext. W-1) where the date of birth of the concerned workman was recorded as 28-9-28.

7. The three above mentioned documents of the management were challenged on the ground that the management has intentionally raised the age of the concerned workman by way of fabrication. I find no reason as to why the management, leaving aside other employees like the present workman, who joined the fleet of the Eastern Coalfields Limited after nationalisation, would single out the concerned workman for shortening his service period. The management's case in this matter is that as per Form-B Register of the erstwhile employer they prepared the new Form-B Register and the workman signed the same. I find sufficient force in the contention of the management that recording of the age of the workman in their new Form-B Register must have been done on the basis of certain documents and though the management is not in a position to produce these documents at present, still then, these documents having been maintained officially that the recording in these registers should not taken lightly and ignored, unless cogent evidence is forth-coming to disbelieve the same. It is easy for the workman to deny his signature at a subsequent stage but even apart from the signature, the register itself shows that the year of birth of the concerned workman was 1926. The said entry in the Form-B Register is confirmed by the Identity Card Issue Register (Ext. M-2) which also shows his date of birth as 1926. Unlike Ext. M-1, the workman admitted his signature in this document Ext. M-2, but he stated in his evidence that all other entries excepting date of birth is correct. It is very difficult to place any reliance on such statement of the workman. Apart from these two documents, the management has produced unimpeachable evidence in support of the age of the workman. Ext. M-3 i.e. the service Card of the concerned workman issued by the erstwhile employer, namely, Bengal Coal Co. forms the same. It appears that this document was issued on 2-4-1957 and the workman himself admitted that all the entries excepting the date of birth is correct. Mere statement of an interested party that an old document is incorrect is not believable and accordingly the management's case stands on a solid footing on the basis of these documentary evidence. It was also submitted on behalf of the management that if his date of birth is taken as 1928, he would have been less than 18 years at the time of his entry into the mining service which is not permissible under Section 45 of the Mines Act, 1952. Obviously, the Mines Act having come into existence after the entry of the concerned workman in service this provisions cannot have any application in respect of the workman.

8. Be that as it may, the only document upon where great reliance was placed on behalf of the union is the Gas Testing Certificate dated 7th March, 1969 which has recorded concerned workman's date of birth as 28th September, 1928. It was submitted that the date of birth recorded there must be correct as such certificate was issued under the Mines Act. It is stated in the certificate that the date of birth of the concerned workman was recorded as 28-9-1928 as he has given satisfactory evidence of his age.

9. It was further submitted on behalf of the union that satisfactory evidence must have been provided by the erstwhile employer to the issuer of the Gas Testing Certificate and unless such evidence was produced before him, he could not have issued such certificate. I am not in a position to agree with this contention of the learned Advocate for the union. Gas Testing Certificate is mainly issued for the purpose of showing that the concerned workman passed an oral examination to test and detect the presence of inflammable gas. It has got nothing to do with the actual age of the certificate holder. Further, apart from the fact that there is absolutely no scope for holding anything on the basis of mere guess and conjecture, neither the nature of the satisfactory evidence produced before the issuer of the said certificate having been disclosed, then any other document disclosing the reason for satisfaction of the issuing authority in certifying the age of the certificate holder, been produced before the Tribunal. I am not in a position to place much reliance on the certificate as a proof of the actual age of the concerned workman.

10. A far more reliable document, however, in my opinion, is Ext. M-3 which is a Service Card of the concerned workman. The concerned workman in his evidence stated that he does not know whether any such Service Card like Ex. M-3 used to be maintained by the erstwhile employer. Management witness Mr. Partha Pratim Mahata,

the Deputy Personnel Manager of Sodepur (R) Colliery stated in his evidence that he has knowledge about the maintenance of such record before nationalisation of the Collieries. He further stated that since he worked in several Collieries, he has seen those records and that is thereason why he deposed that he has knowledge about the maintenance of such record. It is therefore clear that such records used to be maintained. The workman was however more forthright in his reply regarding the truthfulness of the other particulars of the said service card. While admitting that the particulars given in the said service card as correct, he neither admitted nor denied the particular regarding age in the said service card. There being no positive assertion on the part of the workman that the age recorded in the service card was incorrect, I am inclined to place much more reliance on that record as correct than the Gas Testing Certificate because the former was not only earlier in point of time but also because the particulars were directly written by the employer who must have in its control and possession all the documents and declarations of age of its employees. The age recorded in the Gas Testing Certificate, therefore, cannot be believed as correct.

11. In the above state of affairs, I do not find any reason to disbelieve the case of the management that the recorded age, as it is in the Form-B Register, is correct. The action of the management of Poidih Colliery of M/s. Eastern Coalfields Limited in not correcting the date of birth of the concerned workman Shri Sahadeo Roy as 28th September, 1928 on the basis of the Gas Testing Certificate dated 7th March, 1969 must accordingly be held to be justified. The workman accordingly shall not be entitled to any relief in this case.

This is my Award.

Dated, Calcutta,

The 16th March, 1998.

A. K. CHAKRAVARTY, Presiding Officer

नई दिल्ली, 2 अप्रैल, 1998

का.आ. 857 :--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. बी.सी.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं.-2), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-4-98 को प्राप्त हुआ था।

[सं. एल-20012/98/90-आईआर (सी-I)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 2nd April, 1998

S.O. 357:--In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCIL and their workman, which was received by the Central Government on 2-4-98.

[No. L-20012/98/90-IR(C-I)]

AJAY KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri B. B. Chatterjee, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 41 of 1991

PARTIES :

Employers in relation to the management of Kustore Area of M/s. ECCL and their workmen.

APPEARANCES :

On behalf of the workmen : None.
On behalf of the employers : None.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 24th March, 1998

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (98)/90-I.R. (Coal-I), dated, the 5th February, 1991 :

SCHEDULE

"Whether the action of the management of Kustore Area of M/s. Bharat Coking Coal Ltd. in not considering Shri Sushil Jha for promotion to the post of Senior Personal Assistant in the light of the Award dated 28-9-87 of the CGIT No. 2, Dhanbad in Ref. No. 273 of 1986 is justified? If not, to what relief is the workman entitled?"

2. Soon after the receipt of the order of reference notices were duly served upon the parties. But neither the workmen nor the management turned up before this Tribunal nor took any steps. Then again notices were issued to them but in spite of the issuance of notices they did not turn up. It therefore leads me to inference that there is no dispute presently existing between the parties. In the circumstances I have no other alternative but to pass a 'No Dispute' Award in the reference.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 2 अप्रैल, 1998

का.आ. 858.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में टिस्को के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 2/4/98 को प्राप्त हुआ था।

[सं. एल-20012/200/92-आई.आर. (सी-I)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 2nd April, 1998

S.O. 858.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. TISCO and their workman, which was received by the Central Government on 2-4-98.

[No. L-20012/200/92-IR(C-I)]

AJAY KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

1014 GI/98--7

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 63 of 1993

PARTIES :

Employers in relation to the management of Sijua Colliery of M/s. Tata Iron and Steel Co. Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen—Shri D. K. Verma, Advocate.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 24th March, 1998

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) and sub-section 2(k) of the I.D. Act, 1947 has referred to following dispute to this Tribunal for adjudication vide their Order No. L-20012/200/92/I.R. (Coal-I), dated, the 19th/21st May, 1993 :

SCHEDULE

"Whether the action in terminating the employment of Shri Ikram Mia by the management of Sijua Colliery of M/s. TISCO. w.e.f. 13-1-88 is justified? If not, to what relief the workman is entitled for?"

2. The concerned workman Ikram Mian has made out a case in his W.S. to the effect that the concerned workman was a permanent employee of Sijua Colliery where he was working as Miner/Loader. The management of Sijua Colliery issued a chargesheet against the concerned workman being No. 431 dated 25-8-87 on the allegation of absents from duty without permission and satisfactory cause and thereafter on conducting an ex-parte domestic enquiry proceeding dismissed the concerned workman by their letter dated 11-1-88. Such order of dismissal against the concerned workman is illegal and unjustified as the concerned workman has not committed any misconduct mentioned in the chargesheet. In addition the concerned workman has also made out a case that the enquiry conducted by the Enquiry Officer was not fair and proper as the Enquiry Officer did not serve any notice upon the concerned workman asking him to participate in the domestic enquiry and thereby giving him an opportunity to take part in such enquiry. The enquiry officer has also abstained from supplying papers of the proceeding and enquiry report to the concerned workman. The concerned workman has gone so far to claim that even the appointment of the enquiry officer was not by the competent authority and that the enquiry officer has not mentioned anything as to how he came to the conclusion that notices were actually served upon the concerned workman in respect of the domestic enquiry and ultimately decided to hold that domestic enquiry ex parte. Because of all these the concerned workman has claimed that the management acted illegally in dismissing the concerned workman. Naturally the concerned workman has prayed for an Award to the effect that the order of his dismissal is illegal and unjustified and for an Award directing the management to reinstate him with full back wages. The dispute raised by the concerned workman having referred to this Tribunal by the Ministry of Labour, Government of India the present reference case has been registered. Hence the case.

3. The management filed a W.S.-cum-rejoinder and decided to oppose the claim of the concerned workman. In doing so, the management has challenged the legality and maintainability of the reference and the existence of any workman named Ikram Mia and has also made out a case that the concerned workman developed the habit of absents from duty without permission or any information and without any sufficient cause from the year 1982 for which in the very year i.e. 1982 he was warned and thereafter in the year 1983 he was suspended for five days and 10 days on two occasions for the misconduct of unauthorised absence without justified cause. In the year 1984 the concerned workman was again

suspended for five days for similar misconduct of unauthorised absence from duty and on another occasion in the year 1986 he was suspended for a period of 10 days on the same ground. The management gave sufficient opportunity to the concerned workman to ment himself but to no purpose and the management was constrained to dismiss him from service with effect from 27-1-1987 for repeated commission of misconduct of unauthorised absence without permission and satisfactory cause. Thereafter at the request of the recognised union and on the basis of the assurance given by the concerned workman and his union the concerned workman was reemployed with effect from 17-4-87 but without allowing him continuity of service as agreed upon jointly by the management and the union and the concerned workman. The concerned workman accepted the condition of his reemployment and assured the management that he would not commit such misconduct in future, but in vain. As the concerned workman did not take care to translate his assurance into action as a result of which a chargesheet was issued on 25-8-87 after lapse of a period 2 months from the date on and from which he started absenting himself from duty without permission, information and satisfactory cause. The concerned workman did not submit any reply to the chargesheet for which a letter dated 28-9/27-10-87 was issued to the concerned workman by registered post with A/D intimating the date of enquiry on 14-10-87. Shri A. Bhattacharjee, Personnel Officer of the Sijua Colliery was directed to conduct the departmental enquiry and the Miners Record Clerk of Sijua Colliery was appointed as Presenting Officer. By the said letter the concerned workman was intimated that the chargesheet No. 431 dated 25-8-87 was sent to him by Regd. Post with A/D at his home address but the same was not returned to the sender giving rise to the presumption that the same was duly received by the concerned workman. The enquiry officer adjourned the enquiry to 26-11-87 and fresh notice of enquiry dt. 14-11-87 was issued to the concerned workman by Regd. Post with A/D and that letter was also not returned to the sender for which it was presumed that the same was received by the concerned workman and in spite of such services he did not care to attend the enquiry for which a copy of the enquiry notice was published in the widely circulated newspaper in the locality known as "Janmat" and the date was fixed on 26-11-87. A copy of the notice was also displayed on the notice board but in spite of all these steps the concerned workman did not attend the enquiry on the date fixed i.e. on 26-11-87 for which the enquiry authority had no other alternative but to proceed with the enquiry ex-parte and ultimately held the enquiry ex-parte. The enquiry officer submitted his report to the competent authority who on examination of the report and all other relevant papers of the domestic enquiry proceeding record arrived at the conclusion that the concerned workman was not interested for his job and passed the order of his dismissal which was intimated to the concerned workman by letter dated 4/11-1-88 with effect from 13-1-88. The management, however, offered all payments to the concerned workman and such letter was issued under the signature of the Agent of the Sijua Colliery who was the competent authority to remove the concerned workman from service. Thus the concerned workman was given sufficient opportunity to appear before the Enquiry Officer in connection with the domestic enquiry and to submit his written statement in defence but as the concerned workman did not care to appear before the enquiry officer the enquiry officer was quite justified in deciding the domestic enquiry ex-parte and intimating the competent authority the decision arrived at by him in the circumstances mentioned in the report which the competent authority on due consideration accepted and passed the order of dismissal against the concerned workman which was quite lawful and justified. The concerned workman is not entitled to any relief.

4. In the rejoinder the management has denied the contents of paras 5 to 12 of the W.S. of illegality of the order of dismissal etc. as mentioned in the W.S. of the concerned workman for which the management has prayed that an Award to the effect that the concerned workman is not entitled to any relief may be passed upon the finding that the management was quite justified in dismissing him.

5. The point for consideration is whether the management of Sijua Colliery was justified in terminating the services of the concerned workman Ikram Mia and whether the concerned workman is entitled to any relief.

DECISION AND REASONS

6. The management though challenged the legality and maintainability of the reference in the W.S.-cum-rejoinder but during hearing the learned Advocate on the side of the management abstained from pressing the question of legality and maintainability of the reference and on perusal of the notification dated 21-5-93 as well as papers forming part of the record I find nothing therein to come to the conclusion that the present reference is illegal and thereby it is not maintainable. I therefore decide this point in favour of the workman by holding that the present reference is quite maintainable.

7. The management in the W.S.-cum-rejoinder has challenged the description of the concerned workman where the concerned workman has been described as Shri Ikram Mia although his name is Ekram Mian. It has not been disputed on the side of the workman that his name is in fact Ekram Mia and not Ikram Mia. Similarly the management in the W.S. has admitted that the concerned workman in the name of Ikram Mia was there at Sijua Colliery who was in fact dismissed from service for his habitual unauthorised absence from duty without permission or information and sufficient cause amounting to misconduct and as such it can be taken for granted that the name appearing in the order of reference has been wrongly typed as Ikram Mia in place of Ekram Mia presumably through mistake or inadvertence when there is no dispute of existence of the concerned workman named Ikram Mia at Sijua Colliery I find no justification to drag the case by referring the matter to the Ministry for correction of the name. The name of the concerned workman in view of the circumstances is treated as Ekram Mian and not Ikram Mia. Now for the purpose of proving the case the management has adduced oral evidence and has also produced a number of documents admitted in the evidence. The documents so admitted in the evidence are a notice dated 8-8-87 vide Ext. M-1, the chargesheet dated 7-10-87, notice of enquiry dated 14-11-87 vide Ext. M-2/1, copy of the publication in the newspaper vide Ext. M-3, three postal receipts vide Ext. M-4, ordersheet of the enquiry proceeding vide Ext. M-5, report submitted by the Enquiry Officer vide Ext. M-6, a letter dt. 11-1-88 vide Ext. M-7 copy of the certified standing order vide Ext. M-8, service sheet vide Ext. M-9, minutes of discussion vide Ext. M-10 and another letter dt. 11-4-87 vide Ext. M-11. On the other hand the concerned workman has abstained from adducing any evidence both oral and documentary but simply filed a few papers with the prayer to keep the same on records for reference during the hearing of the case. MW-1 Bidhan Chandra Sarkar during his examination has stated in details about the issue of the chargesheet steps taken on the side of the management and the enquiry officer to procure the attendance of the concerned workman in the domestic enquiry etc. The witness stood cross-examined on the side of the workman but in fact no question was put to the witness to contradict the issue of the notices etc. for the purpose of procuring attendance of the concerned workman in connection with the domestic enquiry and thereby giving an opportunity to defend himself in the enquiry proceeding started against him with the allegation of misconduct by way of unauthorised absence from duty without permission, information and justified cause. The evidence so adduced on the side of the management in the absence of any evidence on the side of the workman though tested by cross-examination on the side of the workman is in fact evasive as against the concerned workman like that of the enquiry proceeding started against him by issuance of chargesheet by the management of Sijua Colliery the fairness of which was not challenged on the side of the concerned workman through his lawyer vide order No. 32 dt. 30-12-97 of this reference. Learned Advocate for the workman tried to attract my attention to the evidence of MW-1 during cross-examination that the witness admitted during cross-examination that no record paper was produced by him before the Enquiry Officer for and on behalf of the management and that the management has relied upon so many documents produced and admitted in the case as evidence on being marked as Ext. M-1 to M-11. I however, find no force in the argument of the learned Advocate on the side of the workman and it is also submitted that the allegation against the concerned workman is of habitual absence from duty without any permission, information/intimation and sufficient cause

amounting to misconduct as per certified standing order and even in case and under the circumstances when the fairness etc. of the domestic enquiry have not been challenged on the side of the concerned workman in view of the nature of allegation against him, the action of the management in dismissing or in terminating the services of the concerned workman should not be treated as justified and for that purpose learned Advocate has relied upon a decision of Hon'ble Andhra Pradesh High Court reported in 1996 Lab. I.C. page 490 wherein Their Lordship was pleased to hold that the charges of misconduct due to the absence of the concerned workman without leave being not serious misconduct of misappropriation or insubordination harshest punishment of removal from service is un-called for and Their Lordship arrived at a decision that the petitioner in the said case should be reinstated with continuity of service but without back wages. Learned Advocate has also relied upon another decision of Hon'ble Supreme Court reported in 1984 Supreme Court Cases (L/S) page 282 and by relying on those two decisions it was submitted since the misconduct of the concerned workman in this case is not the misconduct of misappropriation, an order directing his reinstatement may be passed. On the other hand learned Advocate on the side of the management it was submitted that in view of the past conduct of the concerned workman no order in terms of the prayer should be passed in his favour. On consideration of submission for and on behalf of the respective parties and keeping in mind the allegation levelled against the concerned workman etc. it seems to me that an order in favour of the concerned workman for his reinstatement but without any back wages should be passed with the benefit of continuity of service for the limited purpose of payment of increments although the management of Sijua Colliery of M/s. Tisco. was quite justified in terminating the services of the concerned workman. The management is thus directed to reinstate the concerned workman within three months from the date of publication of the Award.

8. However, there will be no order as to costs.

This is my Award

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 15 अप्रैल, 1998

कां.आ. 859 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. ओ.एन.जी.सी. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-4-98 को प्राप्त हुआ था।

[संख्या एल-30012/6/92-आई.आर. (त्रिविध) (सीI)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 15th April, 1998

S.O. 859.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. O.N.G.C. and their workman, which was received by the Central Government on 15-4-98.

[No. L-30012/6/92-IR (Misc.) (C-I)]

AJAY KUMAR, Section Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 3/93

In the matter of dispute between :

Shri Upendra Dutt Juyal,

S/o Shri S. N. Juyal Opp. 4,
Bharuwalla, Clement Town, Dehradun.

Versus

The Chairman,

Oil & Natural Gas Commission,

Tel Bhawan, Dehradun-248 001.

APPEARANCES :

None for the workman.

Ms. Leena Sharma for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-30012/6/92 IR (Misc.) dated 29-12-92 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management of ONGC in terminating the services of Shri Upendra Dutt Juyal S/o Shri S. N. Juyal—contingent worker w.e.f. 1-5-1987 is legal & justified? If not, to what relief the workman is entitled?”

2. The workman had not been appearing in this case since 3-3-1997, 21-4-1997, 29-5-1997, 7-10-97 and 5-3-98.

3. The Management submitted written arguments in this case. In view of no evidence produced by the workman and the points urged by the management in its written arguments and after having gone through the record of this case I am of the opinion that the action of the Management in terminating the services of Upendra Dutt Juyal was legal and justified. The workman was not entitled to any relief. Parties are, however, left to bear their own costs

31st March, 98

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 15 अप्रैल, 1998

कां.आ. 860 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. ईस्ट वेस्ट एयरलाइन्स के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-4-98 को प्राप्त हुआ था।

[संख्या एल-11012/48/96-आई.आर. (सी-I)]

अजय कुमार, अनुभाग अधिकारी

New Delhi, the 15th April, 1998

S.O. 860.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. East-West Airlines and their workman, which was received by the Central Government on 15-4-98.

[No. L-11012/48/96-IR (C-I)]
AJAY KUMAR, Section Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL : NEW DELHI

I.D. No. 168/97

In the matter of dispute between :
Shri Onkar Singh, Security Guard,
RZ-556, Raj Nagar Part-II,
Palam Colony,
New Delhi-35.

Versus

The Manager (Personnel),
East West Airlines,
DCM Building, 16,
Barakhamba Road,
New Delhi-110001.

None for the parties.

APPEARANCES :

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-11012(48)/96-IR (Coal-I) dated 13-10-97 has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the action of the management East West Airlines, in terminating the services of Shri Onkar Singh, Security Guard w.e.f. 26-5-95 is just, fair and legal? If not, to what relief is the concerned workman entitled?”

2. Notice of the dispute was sent to the parties but none appeared on 15-12-97, 5-2-98 and 16-3-98. Notice had been sent in the ordinary way as well as by registered post but nobody could be served on this address. It appears that the letter was also sent to the Ministry of Labour to supply correct address but no reply was received. It appears that none of the parties are interested in this dispute and there exists no dispute between the parties to be adjudicated in this Tribunal. No dispute Award is given in this case leaving the parties to bear their own costs. 2nd April, 1998

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 16 अप्रैल, 1998

कांआ० 861:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबन्धतन्त्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण पटना के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-4-98 को प्राप्त हुआ था।

[संख्या एल-12012/442/95-आई०आर० (बी-II)]
पी० जे० माईकल, डेस्क अधिकारी

New Delhi, the 16th April, 1998

S.O. 861.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Patna as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 7-4-98.

[No. L-12012/442/95-IR(B-II)]
P. J. MICHAEL, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, PATNA

Reference No. 7(c) of 1997

Management of Punjab National Bank, Patna and their workmen represented by General Secretary, Punjab National Bank Staff Union, Patna.

For the Management.—Shri Saroj Sinha, Assistant Manager, Punjab National Bank, Patna.

For the Workman.—Sri B. Prasad, General Secretary, Bank Employees Federation, Patna.

PRESENT :

Sri Raja Ram Singh, Presiding Officer, Industrial Tribunal, Patna.

AWARD

The 31st March, 1998

By adjudication order No. L-12012/442/95-IR-(B-II) dated 7-1-1997 the Central Government (Government of India) in the Ministry of Labour, New Delhi referred u/s. 10(1)(d) of the Industrial Disputes Act, 1947 (hereinafter to be referred as the 'Act') the following dispute between the Management of Punjab National Bank, Patna and their workmen represented by the General Secretary, Punjab National Bank Staff Union, Patna for adjudication :

“Whether the action of the Management of Punjab National Bank, Patna in not regularising Shri Ajit Kumar as full time sub-staff in grade IV is justified and legal? If not, to what relief the workman is entitled?”

(Hereinafter Ajit Kumar to be referred as 'workman').

2. After receipt of the adjudication order the reference was registered and parties were directed to appear in this Tribunal. Both parties appeared and written statement of claim on behalf of the workman was filed. Copy of the written statement filed on behalf of the workman was served on the Management and the Management filed its rejoinder to the written statement filed by the workman. Thereafter a rejoinder was filed on behalf of the workmen to the comments made by the Management in the rejoinder filed on behalf of the Management. Documents were filed on behalf of the workman as well as by the Management. Thereafter date

was fixed for evidence and one witness was examined on behalf of the Management and five documents were adduced in the evidence on behalf of the Management which were marked Exts. 1 to 5. On behalf of the workman one witness was examined and four documents were adduced in the evidence which were marked Exts. A to D. Thereafter arguments were heard on behalf of both parties.

3. The case of the workman as mentioned in the written statement filed on his behalf may be narrated in short as follows :—

The workman was appointed as a part time sweeper by the Lead Bank in Lead Bank at Shahu Bhawan, Exhibition Road, Patna on 1-2-1990.

The workman joined service in the Punjab National Bank (hereinafter referred to be as 'the Bank') at Lead Bank at Shahu Bhawan, Exhibition Road on 1-2-1990 and started working there. Although he was appointed as a part time sweeper in the year 1990 (1-2-1990) he was working as a peon for the whole day (full days work) there.

The workman used to carry daks and deliver the same through Dak Delivery Register of the Bank to different Offices/Banks at Patna right from the date of his appointment as part-time sweeper i.e. 1-2-1990. The workman was paid conveyance allowance for carrying daks and delivering them to different Banks in a routine manner.

The Bank Management had actually engaged him for the job of peon of the Bank but the appointment was made as part-time sweeper on 1-2-1990 to save money by paying only Rs. 175 p.m. to the workman. On persistent demand of the union to declare the workman as full time subordinate staff in Grade IV scale and to enhance the wages at par with regular staff of subordinate Cadre, the Bank Management enhanced wages to 1/3rd in the cadre of subordinate staff with effect from 20-7-1992 and confirmed the services of the workman as a part-time sweeper on 8-8-1992 while working at Boring Road Lead Bank Office.

Since the workman had been working against a vacant post of subordinate staff in the Bank and had already been putting long years of service and was kept under tenterhooks, he got the demand placed before the Management through the union on 19-11-1993 for regularising him as full-time employee and payment of consequential benefits.

The Management did not evoke any response to the demand notice placed by the union nor did they declare the workman as full-time subordinate staff in grade IV. So the union raised an industrial dispute before the Assistant Labour Commissioner (Central), Patna on 28-4-1994 for his intervention and settlement of the matter. The Assistant Labour Commissioner (Central), Patna intervened into the matter and also got joint inspection held to know the nature of work the workman was performing. However the Assistant Labour Commissioner (Central) held conciliation proceedings in the matter on various dates but due to uncompromising attitude of the Management of the Bank the conciliation proceedings ended in failure and the failure of the conciliation proceedings report was sent by the Assistant Labour Commissioner (Central), Patna to the Ministry of Labour, Government of India on 8-12-1995. On receipt of the failure report of the conciliation proceeding this reference was made.

The main ground of the workman is that he was serving in the Bank for full days work as peon for last four years but he was not regularised. So according to the workman although he was appointed as part-time sweeper, but he worked as a Peon in the Bank for several years, so he is entitled for regularisation as a Peon as full-time sub-staff in grade IV.

4. The claim of the workman has been resisted in the rejoinder filed on behalf of the Management. It has been admitted that Ajit Kumar was posted as Part Time sweeper drawing 1/2 scale wages as per Banks conciliation settlement dated 7-5-1984. He was posted at Lead Bank Office, Boring Road, Patna where he was performing the duties of part-time sweeper and not of a sub-staff. So he is not required to regularised as a Peon. However it has been alleged that when-

ever occasions were required, he rendered specific work as peon. He was compensated for the job done by him.

It has been alleged that he is not eligible to be considered and redesignated as peon with consequential benefits according to the prevailing rules of the Bank. According to the Management Ajit Kumar was engaged as part-time sweeper on consolidated wages of Rs. 175 p.m. with effect from 1-2-1990 and subsequently his wages had been enhanced to 1/3rd scale of pay with effect from 2-1-1992 due to enhancement of area and further enhanced to 1/2 scale of pay w.e.f. 31-8-1994 due to addition in sweeping area of the premises.

It has been further alleged that the workman is not entitled for regularisation according to the guidelines dated 16-4-1990 and subsequent provisions. So according to the Management the workman is not entitled to be absorbed or appointed as a Peon according to the guidelines and rules of the Bank.

5. In the petition filed by way of rejoinder on behalf of the workman to the comments of the management it has been alleged that the Bank appointed the workman as a part-time sweeper but took the work of a peon from him. So he is entitled for regularisation of service. It has been alleged on behalf of the workman that the Bank Management's avowment about discharging of duties of the workman as part-time sweeper only is vague since they have failed to state categorically the specific period of his working as such.

6. M.W. 1 Jayant Kumar Singh who is Officer in the Office of the I.D.A., Patna has stated that Ajit Kumar was appointed as part-time sweeper. He was paid according to the Rule 7/2 of P.D. Circular. He has proved the Circular No. 7/2 issued by the Personnel Division, Punjab National Bank, New Delhi which has been marked Ext. 1. He has further stated that since he is part-time workman so formerly his salary was of one third of the basic pay and subsequently it was raised to the half of the basic pay since 31-8-1994. He has proved the letter issued by Sr. Manager, Personnel making half of the basic salary to the workman. This letter is marked Ext. 2. The workman is getting Rs. 965 per month. He has proved the photo copy of the salary slip showing the payment of Rs. 965 to the workman which has been marked Ext. 3. He has stated that regularisation of service of part-time sweeper to full-time sweeper or a peon is made according to the rules framed by the Central Government, Ministry of Finance. He has proved the guidelines made by the Ministry of Finance, Government of India in the Department of Economic Affairs (Banking Division) regarding appointment of peon holding the post of sweeper, Frash etc. The document is marked Ext. 4. Similar document has been filed regarding conversion of sweeper/frash etc. to the post of peons. This document has been marked Ext. 5. He has further stated that the dak is sent to another Branch through peon Book. Peon Book contains the name of Peon through which the dak is sent. Some times some urgent dak is also delivered by the Officers also. When any dak is delivered by the officers the name of the officer is not mentioned in the Peon Book, rather, it is left blank. He has stated that the work of peon was not taken by Ajit Kumar but some times when a peon is not available daks are delivered through him to the Branch or any other office. Some times actual expenses is paid to the Ajit Kumar for delivery of Dak but written instruction is not given to carry the Daks. Some time he volunteers his service to work as peon. So this witness has admitted that the workman some times when peon was not available daks were delivered through him to the Branch or any other office and actual expenses was paid. He has further stated that written instruction is not given to carry the Daks. He has stated that some time he volunteers his service to work as peon. He has stated in his cross-examination that he can not say when the Lead Bank Office began to functions. He has stated that the name of the office is Lead District Manager's Office. He is working in the office from 3-8-1994 as Officer. Before that he was posted at Mahabalipur : Mahabalipur is at the distance of 70 K.M. from Patna. He has stated that one Janki Roy who was a peon in the Lead Bank. He has stated that after raising of the industrial dispute on behalf of Ajit Kumar a permanent peon was deputed and subsequently Janki Roy was posted as a permanent peon. So he is admitted that before raising industrial dispute on behalf of the workman there was no peon in the Lead Bank and he has further stated that the duty of part-time sweeper is only to sweep and clean the office. He has further stated that when Ajit

Kumar performed the functions of peon he was not paid any wages for that, rather, he was paid only actual expenses. He has further alleged that distribution of daks, mails etc. through peon book is the duty of a peon. He has further stated that during the conciliation proceeding before the A.L.C. (Central) a joint inspection by the representative of the Management and the union was made. He has proved the joint inspection report of the Committee which has been marked Ext. A on behalf of the workman. In the re-examination he has stated that the function of the peon is to attend the office from 10 A.M. to 5 P.M. But on the basis of the record of his office he can say Ajit Kumar, workman never attended the office from 10 A.M. to 5 P.M. which is required to do. In the cross-examination he has stated that since before 3-8-1994 he was posted at Mahabalipur so he has no personal knowledge whether Ajit Kumar worked from 10 A.M. to 5 P.M.

7. W.W. 1 Ajit Kumar is a workman himself. He has stated that he was appointed on 1-2-1990 as a part-time sweeper. He was paid Rs. 175 per month as wages. The amount was consolidated. He used to come in the office at 8.00 A.M. and used to clean table, room, take out registers and ledgers from Almirah and used to deliver the letters and other daks to other Banks. He used to perform his duty from 8 A.M. to 6 P.M. The office was shifted from Exhibition Road to Boring Road on 20-7-1992. He used to perform the same function and for the same time. There was no Peon in the L.B.O. Office at that time. He has proved eight photo copy of the extract of the Peon Book which has been marked Ext. B. He used to get Rickshaw fare (the actual expense) in delivering the Daks. He has proved six sheets receipt for grant of rickshaw fare which has been marked Ext. C. A permanent peon was posted in the month of April, 1994 when industrial dispute was raised for regularisation of his service before Assistant Labour Commissioner (Central). He was working against permanent vacancy of the peon. He used to perform the function of Peon by the order of Lead District Manager. He used to perform the same function which is performed by a permanent peon. He performed the function of peon for four years. He was not paid the salary of peon for performing the function of peon. A letter was given by the General Secretary to the Zonal Manager for regularisation of his service. He has proved the letter given by the General Secretary to the Zonal Manager for regularisation which has been marked Ext. D. It has been stated that he worked more than 240 days in a calendar year as a peon. He has further alleged that he performed the work of Peon but he was designated as part-time sweeper. In the cross-examination he has stated that he was given letter of appointment but in the appointment letter the designation of part-time sweeper was mentioned. He has stated that when daks is delivered by the Peons they get rickshaw fare. It has been suggested to him that he took the payment from the office without performing the function deceiving the authority. The workman denied the suggestion. He was paid in cash from petty cash. It has been suggested to the witness that he got the name mentioned in the Peon Book due to vacant space in the column of the name of Messenger fraudulently. The witness has denied the suggestion.

8. There is no dispute on this point that the workman was appointed in the Lead Bank. According to the Management he was appointed as Part-time sweeper and there was no dispute on the point that he was initially paid Rs. 175 as consolidated amount per month as wages. However, subsequently he was paid firstly one third of the pay of the sweeper and subsequently his pay was raised one half of the pay of the sweeper. According to the workman although he was appointed as part-time sweeper but work of peon was taken from him for many years continuously. There is difference between the workman and the Management on this point.

9. From the rejoinder filed on behalf of the Management it has been clearly mentioned that whenever occasions are required he rendered specific work as peon and he was compensated for the job done by him. So it stand admitted that the workman rendered specific work as a peon when occasions required. It has been further stated in the said rejoinder that it is well settled principles of administration and human relation that when an employee works with an office/institution all the members of the office work as a team, no matter what ever designation/position they occupy.

All the members work as one entity and it is always possible and probable that one staff member may do certain work of another staff member of different position/designation keeping in view the exigencies of work. Such acts are purely voluntary and Management never objects to such helpful gestures. In the instant case Ajit Kumar in good gesture and in all probabilities might have offered his services on certain days in a casual way when there was dearth of subordinate staff in the branch and on few occasions might have done some work relating to subordinate staff. Such work done by him was purely of a casual nature and bank adequately compensated for the same. By doing so the employees can not claim a higher designation and consequential benefits as a matter of right. So from this statement it becomes admitted that the Management took the work of peon from the workman when there was no peon and from the evidence of the Management witness No. 1 it appears that a peon was deputed after raising the industrial dispute on behalf of the workman Ajit Kumar and subsequently Janki Roy has been posted as a permanent Peon. So from the evidence of the Management witness itself it appears that there was no peon in the Bank before raising of the industrial dispute by the workman. Moreover Ext. A is the Joint inspection report in the matter of industrial dispute of Ajit Kumar, Part time sweeper, L.B.O. submitted by B. Satpathy, AM (P) Regional Office, Patna and P. K. Sinha General Secretary, P. N. B. Staff Union. From this report it appears that a joint inspection was made by the representative of the Management and the union during the course of conciliation proceeding and in the joint inspection report it was mentioned that on verification of the available records the members of the joint inspection committee found that Sri Ajit Kumar was sent to various offices in Patna to deliver dak on different occasions during the year 1992 and 1993 as evident from Dak Delivery Register (Peon Book) and he was also paid conveyance charges for visiting the offices on several occasions during the period January, 91 to May, 1993. So the joint inspection report submitted by the representative of the Management and the union disclosed that Ajit Kumar delivered the daks on different occasions and conveyance charges were paid to him. So from this report the case of workman is corroborated that he performed the work of Peon during the period from 1991 to 1994.

10. Ext. B is photo stat copy of the different extracts of the daks delivery register of the Lead Bank Office, Patna of Punjab National Bank which show that Ajit Kumar delivered daks on the different dates and Ext. C is the photo stat copy of the Bill presented by the workman for conveyance allowance and order of payment is on it. Management vehemently criticised these documents and submitted that these documents are not consistent. However the photo copy of the extracts have been filed on behalf of the workman. It is not possible for the workman to produce all the documents from the Bank, rather, these documents have been filed as sample to show that the workman worked as a peon and for which conveyance allowance was paid. In view of the admission of the Management in the written statement as well as the documents and evidence of the Management witness and the joint inspection report there is no scope to doubt the authenticity of Exts. B and C. So this argument of the learned representative that these documents Exts. B and C are forged papers to be an after thought and appears to be inconsistent to the pleading as well as the evidence adduced on behalf of the Management itself.

11. So from the aforesaid evidence both oral and documentary it becomes evidence that although the workman was appointed as part time sweeper but he worked as a peon in the Lead Bank before the deputation of a peon in the said Bank before raising the industrial dispute by this workman. So the workman worked as a peon for many continuous years and worked for many 240 days in a calendar year. There is no doubt on this. Admittedly there was no peon posted in the Lead Bank before raising the industrial dispute by the workman and there was work of peon at that time also in that Bank. Under such circumstances, there is no reason to disbelieve that this workman was performing all the function of peon in the Lead Bank apart from his duty as Part time sweeper. Ext. 1 is the direction issued by the Punjab National Bank Personnel Division, New Delhi implementing the terms of the settlement arrived at between the Punjab National Bank and All

India Punjab National Bank Employees Federation. However this document is not relevant because there is no dispute on this document. According to the Management the sweeper is entitled only one half of the pay if the sweeping area of his work covers between 2201 to 2300 sq. ft. However this terms of the settlement does not show that part time sweeper was liable to work as Peon also. The terms of the settlement applies only to Part time sweeper. So this document is not relevant in this reference. Ext. 2 shows the enhancement of the wages to the workmen at the rate of one half of pay of the sweeper w.e.f. 31-8-1994. There is no dispute on this point also. Ext. 4 is the directives issued by the Government of India, Ministry of Finance Department of Economic Affairs (Banking Division) to all Chief Executive of Public sector Banks/Financial Institutions regarding appointment of persons holding the posts of sweepers, Farashes etc. as Peon. Ext. 5 is the directives of the same department of the Ministry of Finance Department of Economic Affairs (Banking Division) in respect of conversion of sweepers, farashes etc. to the posts of Peons.

12. According to the Management the workman does not come to the category of appointment of such sweepers who may be entitled for full time employees for appointment as a peon/Messenger in the terms of procedure laid down in the letter dated 21-11-1980. Ext. 5 shows that the suggestion made on behalf of the some Banks to relax the guidelines mentioned in Ext. 4 were rejected by the Government. So the learned representative on behalf of the Management has submitted that the workman cannot be appointed as a Peon as permanent employee in grade IV according to the directives of Finance Department. Government of India contained in Ext. 4. However those directives were applicable to those employees who were working only as part time sweepers and those directives will not stand in the way of this Tribunal to pass an award regularising the service of the workman as a peon in grade IV if the Tribunal is satisfied that the Management had taken the work of peon from the workman for many years treating him as a part time sweeper.

13. Now it has been sufficiently established that although the workman was appointed as Part time sweeper but Management took the work of peon from very beginning till raising the industrial dispute on his behalf. So the Management took the work of peon although he was appointed as Part time sweeper. The Punjab National Bank being a nationalised Bank should work as a Model Employer but here the Bank practised anti labour practice by taking the work of a peon from a person who was being paid as a part time sweeper. Had no dispute been raised on behalf of the workman, the Bank would have taken the work of peon as year. Under such circumstances the work of the Bank is not fair and proper. The Bank should have regularised the service of the workman as a peon as full time sub-staff in grade IV.

14. In the result on the basis of above findings and discussions, I find that the action of the Punjab National Bank, Patna in not regularising the workman Ait Kumar as full time sub-staff in Grade IV is neither justified nor legal.

15. Now the question arises to what relief the workman is entitled. The workman claimed regularisation of his service as full time sub-staff in Grade IV. He was appointed as Part time sweeper and performed the function of Peon for many years apart from his duty of part time sweeper. So he is entitled to the regularisation of his service as Peon as a full-time sub-staff in Grade IV from the date of publication of the award.

16. This is my Award.

RAJA RAM SINGH, Presiding Officer

नई दिल्ली, 17 अप्रैल, 1998

कां०आ० 862.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मंसर्स ई०सी०एल० के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, शत्रुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अतिक्रमण, आसंसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-4-98 को प्राप्त हुआ था।

[संख्या एन-22012/55/96-ग्राई०आर० (सी-II)]

लोली माऊ, डेस्क अधिकारी

New Delhi, the 17th April 1998

S.O. 862.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E.C. Ltd. and their workman, which was received by the Central Government on the 7-4-98.

[No. L-22012/55/96-IR (C-II)]

LOWLI MAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 12 of 1997

Parties :

Employers in relation to the management of
Ningah Colliery of E.C.L.

AND

Their Workmen

Present :

Shri R. S. Mishra, Presiding Officer.

Appearances :

For the Employers : Shri P. K. Goswami, Advocate.

For the Workmen : Shri S. K. Jha, Union President.

INDUSTRY : Coal

STATE : West Bengal

Dated, the 10th March, 1998

AWARD

By Order No. L-22012/55/96-IR(C-II) dated 24-2-97 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of SSI Unit under Ningah Colliery of ECL in dismissing the workman Sh. Sukdeo Pasi, Underground Leader is legal and justified? If not, what relief the workman concerned is entitled to?"

2. The allegation behind dismissal of the concerned workman is reported absence from duty without permission from 26-2-93 till 27-11-93, on which date charge was framed. The fact of absence from duty during this period stands admitted by the union. But it is alleged by the union that the workman had been sick and that though he reported for duty with medical papers after his sickness, the workman was not allowed to resume his duty and the order of dismissal was issued without appropriate enquiry proceeding.

3. Vide order dated 20-11-1997 passed by the Tribunal, the alleged enquiry proceeding was found to be completely improper and so final hearing was taken up with permission to the management to adduce fresh/additional evidence in support of the action of dismissal and with permission to the union to lead rebuttal evidence.

4. The management filed Attendance Register concerning the workman to show the alleged absence from duty for this period of almost nine months. No material has been placed by the union to substantiate the plea of sickness of the workman. The logical inference is that the workman committed misconduct of remaining absence from duty without any justified cause.

5. But the punishment of dismissal appears to be excessive compared to the period of absence. The appropriate punishment should be reduction of Five Annual Special Piece-rated Allowance from the wages of the workman.

6. Hence award is that the order of dismissal of the concerned workman is set aside with direction to reinstate him in service immediately after the award becomes enforceable and with further direction that punishment for the given misconduct is reduction of Five Annual Special Piece-rated Allowance from the wages of the workman. No back wages.

Reference is answered accordingly.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 17 अप्रैल, 1998

कां.आं. 863.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसेर्स ई.सी.एल. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार की 13-4-98 को प्राप्त हुआ था।

[संख्या एम्.एल. 22012/304/95-आई.आर. (सी-II)]

लोली माऊ, डेस्क अधिकारी

New Delhi, the 17th April, 1998

S.O. 863.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E.C. Ltd., and their workman, which was received by the Central Government on 13-4-98.

[No. L-22012/304/95-IR (C-II)]

LOWLI MAO, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 5 of 1996

PARTIES:

Employers in relation to the management of Eastern Coalfields Limited.

AND

Their Workmen

PRESENT:

Shri R. S. Mishra, Presiding Officer.

APPEARANCES:

For the Employers—Shri P. Banerjee, Advocate.

For the Union/Workmen—Shri M. Mukherjee, Advocate.

INDUSTRY : Coal. STATE : West Bengal.

Dated, the 19th March, 1998

AWARD

By Order No. L-22012/304/95-IR(C-II) dated the 14th February, 1996 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Amrsota Incline Mine under Kunustoria Area of ECL in dismissing Sh. Kiran Bouri, U.G. Loader, U.M. No. 44362 from the services of the colliery w.e.f. 17/20-6-94 on the basis of alleged misconduct vide chargesheet No. ECL/AMI/Chargesheet/94-97, dated 28-5-1994 was legal and justified? If not, to what relief the concerned workman is entitled to?"

2. The union's case is as follows :—On account of examined illness the workman could not attend his duty starting from 4-4-1994. A chargesheet dated 5-5-94 was framed against him for his absence from duty. The workman gave a reply to it mentioning that on account of illness he had to remain absent from duty and alongwith his reply he attached medical certificate

supporting his illness. The management did not treat the reply as satisfactory and appointed one Enquiry Officer. But the enquiry was not held properly in as much as opportunity was not given to him to cross-examine witnesses of the management. Basing on the report of the Enquiry Officer, the workman was dismissed from service vide dismissal letter dated 17/20-6-1994. The dismissal letter indicates that the punishment of dismissal was given with reference to another chargesheet dated 28-5-1994. Therefore the punishment of dismissal is not sustainable.

3. The management's case is as follows :—The workman was in the habit of absenting himself from duty, without permission or authority. For such past misconduct he was—

- (i) Suspended from 10-10-84 to 19-10-84.
- (ii) Suspended from 4-3-87 to 7-3-87.
- (iii) Suspended from 25-2-88 to 2-3-88.
- (iv) Warned for absence from 8-6-88 to 15-6-88.
- (v) Warned for absence from 18-7-87 to 23-7-87
- (vi) Warned for absence from 12-1-88 to 19-1-88.
- (vii) Suspended from 21-1-89 to 30-1-89.
- (viii) Warned/suspended on other occasions.

The last and final misconduct on the part of the workman was unauthorised absence from duty from 18-5-94 till the date of framing the relevant chargesheet i.e. 28-5-94. Therefore finally chargesheet No. 971 dated 28-5-1994 was framed against the workman and was duly served on him. He gave reply admitting his misconduct. In the consequential domestic enquiry, there was appropriate participation by the workman and he was given reasonable opportunity to defend himself. Basing on the report of the Enquiry Officer he was admittedly dismissed from service under the dismissal letter dated 17/20-6-1994. The disciplinary proceeding being with reference to chargesheet dated 28-5-1994, it was correctly reflected in the chargesheet. The enquiry proceeding and the punishment was not with reference to the chargesheet dated 5-5-1994 as alleged by the workman. It was a different chargesheet.

4. During preliminary hearing regarding validity of the enquiry proceeding which was disposed of vide order dated 5-5-1997 of the Tribunal, it was found that the Enquiry Officer's report was not sustainable on account of inherent infirmity. Accordingly final hearing was taken up with permission to the management to adduce fresh/additional evidence and with permission to the union to lead rebuttal evidence if any.

5. The management filed affidavit of a departmental witness alongwith photo copies of relevant entries in the Attendance Registers, to support its action of dismissing the workman. The management also filed earlier chargesheet and punishment orders issued to the workman for his past misconducts in remaining similarly absent from duty without permission or authority. The management filed the reply given by

the workman against the chargesheet relating to the disciplinary proceeding dated 28-5-94. The management also filed photo copy of a sick certificate issued to the workman showing that he was fit for duty from 17-5-1994, after illness during the period from 5-4-94 to 16-5-94. No rebuttal evidence was adduced by the workman.

6. To remove confusion, it should be clarified firstly that the chargesheet dated 5-5-94 is a different one, which has nothing to do with the present disciplinary proceeding. Its photo copy has been filed by the union. It is chargesheet No. 588 dated 5-5-94 issued for absence from duty from 5-4-94.

7. The letter of dismissal dated 17/20-6-94 has been issued in connection with chargesheet No. 971 dated 28-5-94. It has been written so categorically in the letter of dismissal. The office copy of the chargesheet has been filed by the management which reflects that the workman acknowledged receipt of the chargesheet by affixing his L.T.I. to the office copy. Photo copy of the reply to this chargesheet given by the workman under his L.T.I. is filed by the management. It has been clearly mentioned in the reply that it was with reference to Chargesheet No. 971. This is the number of the chargesheet which was issued on 28-5-1994. The relevant portion in his reply is quoted below :

"In reference to your Chargesheet No. ECL/AMI/CS/94/971 I beg to state that due to serious illness and ill health I am unable to continue my services as Loader and I kindly pray to you that if you convert my job as any T/R job then I promise the further absent without any authorise leave will not be done by me.

Therefore I request your honour kindly consider my case for this time and arrange to allow me to continue my regular duties."

It is interesting to note that not only the workman admitted his misconduct of remaining absent unauthorisedly during the period, but also he pleaded that if he would be given an alternate job he would not any more remain absent from duty. The photo copy of the sick certificate filed by the management shows that the workman was sick upto 16-5-94 and was fit for duty from 17-5-94 onwards. The entries in the Attendance Register show that the workman was absent from duty, 18-5-94 onwards i.e. during the period connected to this disciplinary proceeding. Thus there was abundant materials to prove that the workman was unauthorisedly absent during the relevant period.

8. The documents filed by the management show that the workman was suspended for ten days in 1984, again suspended for four days in March, 1987, warned in January, 1988, suspended in February, 1988 and again suspended in January, 1989, for similar past misconduct of unauthorisedly remaining absence from duty.

9. The chargesheet dated 28-5-94 was framed for two counts i.e. for remaining unauthorisedly absent from duty the connected period and for the misconduct of habitually remaining absent from duty. The materials are sufficient to support both the

charges. The reply given by the workman to the present chargesheet reflects that he has no mind to continue in his post of Underground Leader. Therein he has pleaded that if he would be given an alternative job he would not remain absent.

10. In view of established misconduct and such an attitude by the workman, the punishment of dismissal does not appear to be excessive or arbitrary.

11. Award :

The action of the management in dismissing the concerned workman named Kiran Bouri from service with effect from 17/20-6-1994 is legal and justified.

Reference is answered accordingly.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 17 अप्रैल, 1998

का० अ०. 864.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई०सी०एल० के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एन-22012/303/92-आई० आर० (सी-II)]

लौली माऊ, डेस्क अधिकारी

New Delhi, the 17th April, 1998

S.O. 864.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of H s. E. C. Ltd. and their workman, which was received by the Central Government on the 13-4-1998.

[No. L-22012/303/92-IR (C-II)]

LOWLI MAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL.

Reference No. 10 of 1993

PARTIES :

Employers in relation to the management of
Seetalpur Colliery of M/s. E. C. Ltd.

AND

Their Workmen.

PRESENT :

Shri R. S. Mishra,
Presiding Officer

APPEARANCES :

For the Employers : Shri P. K. Goswami,
Advocate.

For the Workmen/Union : Shri M. Mukherjee,
Advocate.

INDUSTRY : Coal. STATE : West Bengal.

Dated, the 25th March, 1998

AWARD

By Order No. L-22012/303/92-IR (C. II), dated the 25th January, 1993, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of Seetalpur Colliery in terminating Shri Ramabatar Koiri w.e.f. 14-1-1991 is justified ? If not, to what relief is the concerned workman entitled to ?”

2. Undisputed facts :—

The concerned workman named Ramabatar Koiri had been appointed by the erstwhile Bengal Coal Company Ltd. at Sodepur Colliery in 1955. Later on he was transferred to Sitalpur colliery in the year 1970 by the erstwhile management. The Service Excerpts prepared on the basis of entries in the statutory ‘B’ Form Register, in pursuance of Implementation Instruction No. 76 concerning NCWA-III was supplied to the workman in 1987. 1935 was incorporated as the year of birth in the Service Excerpt. The workman accepted this as year of his birth and accordingly he did not raise any objection against the Service Excerpt. On 12-12-1990 a letter was despatched by the management to the workman intimating that his actual year of birth was 1930, that though he should have been accordingly superannuated on 30-6-1990 he was not given superannuation on the said date because the actual date of birth was not known to the management earlier and that he would stand superannuated with effect from 14-1-1991. On such basis, the workman stands superannuated since 14-1-1991.

3. The union's case is that 1935 was noted as the year of birth of the workman in the statutory ‘B’ Form Register maintained by the erstwhile management before nationalisation of the coal mines and that at the time of nationalisation in 1973 the Government Company opened a new statutory ‘B’ Form Register concerning the then existing employees indicating therein that the year of birth of the workman was 1935. The union further alleges that the Service Excerpt supplied to the workman in 1987 in pursuance of Implementation Instruction No. 76, accordingly reflected that his year of birth was 1935 and the same having been accepted by the workman the said figure should have been treated as final for all purposes. The union makes the further allegation that at a subsequent period, the management fabricated a new ‘B’ Form Register

wrongly mentioning therein that 1930 was the workman's year of birth. It is lastly alleged by the union that the workman was illegally superannuated on 14-1-1991 by using this fabricated new 'B' Form Register.

4. The management's version is that at the time of transfer of the workman from Sodepur colliery to Sitalpur colliery his Service Card was sent to Sitalpur colliery and the Service Card contained the year of birth of the workman. It is also their version that the year of birth recorded therein was 1930, that it was detected much later and that accordingly the workman was given superannuation with effect from 14-1-1991.

5. The union filed the Service Excerpt issued to the workman in 1987 in pursuance of Implementation Instruction No. 76 and also photo copy of a note-sheet submitted by the Manager of Sitalpur colliery to the General Manager of the connected area on 29-11-1990. It has been mentioned in the note-sheet that the 'B' Form Register was prepared in the year 1973 and that another 'B' Form Register was prepared in the year 1975. It has been further mentioned in the note-sheet that the 'B' Form Register of the year 1975 contained the figure 1930 as the year of birth of the workman and that this figure tallied with the year of birth noted in the Service Card of the workman. Under the note-sheet instruction was solicited whether the workman should be superannuated treating 1930 as the year of birth.

6. The management filed a photo copy of the Service Card in respect of the workman allegedly prepared by the erstwhile management. It reflects 1930 as the year of birth of the workman.

7. Though the matter was simple, the management unnecessarily complicated the matter by referring to the alleged Service Card for giving superannuation. Clause (c) of Implementation Instruction No. 76 issued as per NCWA-III says that the date of birth noted in the records of the Company, namely, Form 'B' Register, CMPF record and Identity Card would be treated as final, in respect of employees who do not have matriculation certificate or other recognised certificates to reflect their date of birth. The emphasis is on the instruction that the date of birth noted in the records of the company would be treated as final and that the specific records of the company are Form 'B' Register, CMPF record and Identity Card. Service Card is not one of the records to be referred to for the purpose of determining or finding out the date of birth. Therefore the company should not have subsequently referred to the Service Card for giving retirement to the workman. Apart from that once Service Excerpt was issued indicating that 1935 was the year of birth, the management was bound down to treat it as the year of birth finally for all purposes. Accordingly for the purpose of giving superannuation the management ought to have treated 1935 as the year of birth.

8. The management's inside version as inflicted by the aforesaid note-sheet is that in the Form 'B' Register prepared in 1973, the year of birth was

wrongly noted as 1935. But the management does, not explain, much less establish, how or through whom such a mistake was committed. Therefore the version that it was a mistaken entry, is not acceptable.

9. Form 'B' Register is a statutory Register required to be maintained under Section 48(1) of the Mines Act read with Rule 77 of the Mines Rules. Dates of birth of employees is one of the points to be noted in the Register. This being a statutory register the erstwhile management must have maintained the same by making entry therein in respect of the concerned workman. The management does not say what happened to the said Form 'B' Register. Apart from that, if the Government Company prepared its own Form 'B' Register in 1973 after nationalisation of coal mines, it is not explained what was the reason for preparing another Form 'B' Register in 1975 or at any subsequent period. If at all a new volume is prepared and entries are written therein afresh, the new volume can not take the place of the original Form 'B' Register and the same should be treated only as a copy of the original volume. The figures entered in the original register should be treated as authentic. It appears that the management also accepted the entry made therein as authentic figure at the time of preparing and supplying the Service Excerpt to the workman in 1987 in pursuance of Implementation Instruction No. 76.

10. Thus in any view of the matter, the management was bound to treat 1935 as the year of birth for the purpose of giving superannuation to the concerned workman.

11. Award :

The action of the management in superannuating/terminating the workman named Ramabatar Koiri with effect from 14-1-1991 is unjustified. Direction to the management is to give effect to the superannuation from 30-6-1995 and to give consequential financial benefit to the workman for the intervening period between 14-1-1991 and 30-6-1995.

Reference is answered accordingly.

R. S. MISHRA, Presiding Officer.

नई दिल्ली, 17 अप्रैल, 1998

का.ग्रा. 865.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-22012/547/95-आई.ग्रा. (सी./II)]

लीली माऊ, डैस्क अधिकारी

New Delhi, the 17th April, 1998

S.O. 865.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E.C. Ltd. and their workman, which was received by the Central Government on 13-4-98.

[F. No. L-22012/547/98-IR(C-II)]
LOWLI MAO, Desk Officer.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 44 of 1996

Parties :

Employers in relation to the management of
Khas Kajora Colliery, E.C.L.

AND

Their Workmen

Present :

Shri R. S. Mishra, Presiding Officer.

Appearances :

For the Employers : Shri P. Banerjee, Advocate.
For the Workmen/Union : Shri M. Mukherjee,
Advocate.

INDUSTRY : Coal STATE : West Bengal

Dated, the 24th March, 1998

AWARD

By Order No. L-22012/547/95-IR(C-II) dated, the 26th September, 1996 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Khas Kajora Colliery under Kajora Area of ECL in denying the payment of wages for the forced idle period from 1-7-92 to 22-12-93 to Sh. Braj Lal Rajbir, U. G. Loader is justified ? If not, what relief the workman concerned is entitled to ?”

2. Undisputed facts :—The date of birth concerning this workman as recorded in the statutory ‘B’ Form Register was 1-7-1932. In pursuance of Implementation Instruction No. 76 concerning NCWA-III, Service Excerpt incorporating this figure as the date of birth of the workman was prepared and supplied to the workman sometime in 1987. He did not object to this recording and returned the original Service Excerpt to the management without any ob-

jection. About four years after i.e. in November, 1991 the workman filed a writ application in the Hon’ble High Court at Calcutta with a prayer for a direction to the management to refer his case to the Age Determination Committee/Apex Medical Board for determination of his age. The stand taken by him in his writ application was that he being an illiterate person he was ignorant about the procedure for raising objection against the date of birth recorded in the Service Excerpt. During the pendency of the writ application the workman was given superannuation on 1-7-1992. The Hon’ble High Court vide its order dated 4-9-1992 directed the management to refer the workman to the Apex Medical Board for determination of his age. In pursuance of the direction by the Hon’ble High Court, the workman was referred to the Apex Medical Board and on 30-10-92 the Medical Board gave its assessment that age of the workman was between 55 to 60 years. There was a standing circular vide letter No. ECL/CMD/C-6/GM(P)/92/160 dated 25/27-1-92 by the management to the effect that where the Medical Board would assess the age of an employee by putting it within a range, the figure nearer to the age recorded in the ‘B’ Form Register should be treated as the date of birth of the employee. However, on appeal by the concerned workman, the management gave further benefit to him by accepting mid point of the given range i.e. 57-1/2 years as the age of the workman on 30-10-92. This order was communicated on 11-12-1993. The workman thereafter resumed his duty and continued to work till the new date of superannuation, so fixed.

3. 1-7-1992 was the date on which the workman was initially superannuated on the basis of the date of birth recorded in the statutory ‘B’ Form Register. 22-12-1993 is the date on which the workman was allowed to resume his duty till the new date of superannuation, fixed on the basis of assessment by the Apex Medical Board. During the intervening period, the workman was naturally idle.

4. The guideline provided through Implementation Instruction No. 76 concerning NCWA-III requires that if the date of birth incorporated in the Service Excerpt is incorrect, the workman must put or his objection by endorsing his objection in the format containing Service Excerpt and should return the format to the authority for necessary consequential action. Accordingly the workman should have put up his objection regarding date of birth in the year 1987 itself, when the Service Excerpt was supplied to him. But he slept over the matter about four years and raised the objection for the first time through the writ application filed in the High Court in 1991. Of course his stand before the Hon’ble High Court was that he could not raise the dispute in time because of ignorance about the procedure for raising the dispute. If the objection concerning date of birth would have been raised by the workman in time i.e. in 1987, the matter would have been definitely settled much before 1-7-92, when he was to be superannuated on the basis of recorded date of birth. In that event the question of remaining forcefully idle would not have arisen. This contingency arose because objection concerning the date of birth was

raised after a delay of four years. May be there was bona fide reason behind the mistake in making a belated objection regarding the date of birth. But the management should not suffer for the mistake committed by the workman. Consequences of a mistake should in all fairness go to the party who commits the mistake.

5. Award :—The action of the management in denying payment of wages to the concerned workman named Shri Brailal Rajbir for the idle period from 1-7-1992 to 22-12-1993 is justified.

Reference is answered accordingly.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 17 अप्रैल, 1998

का.अ. 866.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिस ई.सी.एल. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-22012/58/95-आई.आर. (सी-2)]
लौली माऊ, डेस्क अधिकारी

New Delhi, the 17th April, 1998

S.O. 866.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E.C. Ltd. and their workman, which was received by the Central Government on 13-4-1998.

[F. No. L-22012/58/95-IR(C-II)]

LOWLI MAO, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 43 of 1995

Parties :

Employers in relation to the management of
Ningha Colliery of M/s. E.C. Ltd.

AND

Their Workmen

Present :

Shri R. S. Mishra, Presiding Officer.

Appearances :

For the Employers : Shri P. K. Goswami, Advocate.

For the Union/Workmen : Shri B. Mukherjee, Advocate.

INDUSTRY : Coal STATE : West Bengal

Dated, the 11th March, 1998

AWARD

By Order No. L-22012/58/95-I.R. (C-II) dated 29-8-95 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Ningha Colliery under Sripur Area of ECL in denying the payment of wages to Shri Srikanta Tewari, Surface Supervisor against the engagement on rest days/holidays from August, 1993 is legal and justified? If not to what relief the concerned workman is entitled?”

2. The case of the union is as follows :—The concerned workman has been working in Ningha Colliery since about 30 years. He began his employment under the erstwhile management before nationalisation, as a Surface Supervisor and even now also he has been working in the same capacity. There was an agreement between him and the erstwhile management that he would work for 2 to 3 hours more every day beyond his normal working shift and also work on holidays and rest days as and when required by the management and that in lieu of such extra service given by the workman the management would pay his monthly compensatory allowance equivalent to 4 days' wages. After nationalisation also this arrangement was continued and the present management continued to engage the workman on rest days and holidays and in extra hours, as and when necessary and continued to pay him the aforesaid monthly compensatory allowance. But since August, 1993 the management arbitrarily discontinued the arrangement, thereby changing the service condition of the workman.

3. Very strongly the management did not deny that there was such an agreement between the erstwhile management and the workman and that the arrangement was continued even by the present management after nationalisation. The only stand taken by the management in its written statement is that by not allowing the workman to work for 30 days in a month, his service condition is not changed and any kind of right on his part is not curtailed.

4. As the management does not deny the alleged agreement between the workman and the erstwhile management and its continuation even by the present management, existence of the continued agreement will have to be accepted. The right flowing from it to the workman is that he would put up work on holidays and rest days as and when called upon by the management and that in lieu of such extra work he would get compensatory allowance equivalent to 4 days' wages every month.

5. The management does not justify curtailment of this right and so such curtailment is not sustainable. The management should therefore continue the arrangement.

6. Award :—In future, starting from the date of enforceability of this award, the management would engage the workman on rest days and holidays every month and also for 2 to 3 extra hours daily and in consideration of such extra work the management would pay the monthly compensatory allowance equivalent to 4 days' wages to the workman. To avoid complications past benefit starting from August, 1993 is not given to the workman.

Reference is answered accordingly.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 17 अप्रैल, 1998

कां.आ. 867.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई.सी.एल. के प्रबन्धन के संबद्ध निमोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के बचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-22012/131/95-आई.आर. (सी-2)]

लोली माऊ, डेस्क अधिकारी

New Delhi, the 17th April, 1998

S.O. 867.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E.C. Ltd. and their workman, which was received by the Central Government on 13-4-1998.

[No. L-22012/131/95-IR (C-II)]
LOWLI MAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL ASANSOL

Reference No. 57 of 1995

PARTIES :

Employers in relation to the management of Kalipahari Colliery of M/s. E. C. Ltd.

AND

Their Workmen.

PRESENT :

Shri R. S. Mishra, Presiding Officer.

APPEARANCES :

For the Employers—Shri P. Goswami, Advocate.

For the Workmen—Shri C. D. Dwivedi, Advocate.

INDUSTRY : Coal STATE : West Bengal

Dated, the 18th March, 1998

AWARD

By Order No. L-22012/131/95-IR. (C-II) dated 10-10-1995 the Central Government in the Ministry of Labour, has in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2-A of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Kalipahari (R) Colliery under Sripur Area of E.C.L. in keeping Shri Chandrika Nunia, CCM Driver idle from 14-7-90 to 4-9-92 and also denying him wages and other service benefits for the above said period by superannuating him prematurely on 13-7-90 is legal and justified? If not, to what relief the workman concerned is entitled?"

2. Admitted facts :—

Vide superannuation notice bearing No. Ref. AGT/DMR-KPH / Superannuation/90/1419 dated 11-7-1990, the concerned workman was superannuated with effect from 13-7-1990. Subsequently there was protest by the workman against the said superannuation on the ground that he had not reached the age of superannuation. The workman was referred by the management to the Apex Medical Board for determination of his age. The Medical Board assessed that on 11-6-1992 he was 57 years and 6 months old and accordingly his date of birth was assessed to be 11-12-1934. On this basis the actual date of superannuation was found to be 11-12-1994. Therefore the management revoke the earlier order of superannuation and allowed him to resume his duty from 5-9-1992 till the date of superannuation, so fixed by the Medical Board. Prayer by the workman for wages during the idle period from 14-7-1990 to 4-9-1992, was refused by the management.

3. The version of the union is that the earlier superannuation with effect from 13-7-1990 was totally illegal in as much as according to the entry in the 'B' Form Register and according to the Service Except furnished to the workman to pursuance of Implementation Instruction No. 76, his recorded date of birth was 1-7-1935. The union's further version is that the management referred the workman to the Apex Medical Board for determination of age, to cover up his illegality and fault in giving premature retirement and that the workman was subjected to forced idleness for no fault on his part.

4. Although the management filed written statement denying its liability for the alleged superannuation and for the consequential forced idleness of the workman, the management did not take any step at the time of hearing and the case was heard ex-parte vide order dated 19-2-1997.

5. However, it is interesting to note the plea adopted by the management. The management alleges in its written statement that the workman was appointed by the erstwhile management in the year 1954 before nationalisation of Coal Mines, that as per a list of dates of birth in respect of workmen of the concerned Colliery prepared by one G.C. Karmakar the date of birth of this workman was 13-7-1930, that entry in the 'B' Form Register in respect of the workman was made on its basis, that Form 'B' Registers were seized by the Vigilance Department of the company in connection with an enquiry into preparation of false records concerning dates of birth and that accordingly the earlier superannuation order was spiced basing on the data available in the list prepared by G. C. Karmakar. By resorting to such a plea, the management says that although the earlier order of superannuation was wrong, the same was not a deliberate action and that accordingly it should not be saddled with liability to pay wages for the consequential idle period.

6. Apparently the version advanced by the management in its written statement is not acceptable.

7. The union has filed a photo copy of the Service Excerpt furnished to him by the management in pursuance of Implementation Instruction No. 76. This instruction

requires that the date of birth noted in the 'B' Form Register is to be incorporated in the Service Excerpt and the same is to be supplied to the workman. The Instruction further says that if the workman does not dispute the age noted in the Service Excerpt, the same should be treated as final. On perusal of the photo copy of the Service Excerpt it is found that the date of birth as noted therein is 1-7-1935. The workman did not dispute this date of birth noted in the Service Excerpt and therefore the management was found by its own Implementation Instruction No. 76 to treat this date i.e. 1-7-1935, as the date of birth of the workman. The action of the management in referring to a list of dates of birth allegedly prepared several years ago by one Karmakar, for the purpose of giving superannuation was totally wrong. The allegation that such a list prepared by one Karmakar ever existed, has not been substantiated by filing the said list or atleast its copy.

8. Apart from that when protest against the earlier order of superannuation came from the workman, the management ought to have acted immediately by referring to the Service Excerpt prepared as per Implementation Instruction No. 76 and should not have delayed the matter by referring the case to the Apex Medical Board for determination of age. The management should have followed Implementation Instruction No. 76 and should have treated the date of birth noted in the Service Excerpt as final for all purposes.

9. The management is therefore surely responsible for the forced idleness of the workman during the period from 14-7-1990 to 4-9-1992. The workman is accordingly entitled to arrear wages for this period of forced idleness and the management must pay the same forthwith.

10. Award :—

The action of the management in keeping the concerned workman idle during the period from 14-7-1990 to 4-9-1992 was unjustified and illegal. Also the action of the management in not paying arrear wages for this period of forced idleness to the concerned workman is unjustified and illegal. Direction is hereby given that the management shall pay arrear wages to the workman for this period forthwith after the award becomes enforceable.

Reference is answered accordingly.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 17 अप्रैल, 1998

कांभ्रा० 868.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिसर्स ई.सी.एल. के प्रबन्धता के संघर्ष नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-22012/130/95-आई०आर० (सी-II)]

लोली माऊ, डेस्क अधिकारी

New Delhi, the 17th April, 1998

S.O. 868.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E. C. Ltd. and their workman, which was received by the Central Government on 13-4-98.

[No. I-22012/130/95-IR (C-ID)]
LOWLI MAO, Desk Officer

1994 GI/98—10

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 58 of 1995

PARTIES :

Employees in relation to the management of Parasea 6 and 7 Incline of M/s. E. C. Ltd.

AND

Their Workmen.

PRESENT :

Shri R. S. Mishra, Presiding Officer.

APPEARANCES :

For the Employers : Shri P. Banerjee, Advocate.

For the Workmen : Shri M. Mukherjee, Advocate.

INDUSTRY : Coal.

STATE : West Bengal

Dated, the 9th March, 1998

AWARD

By Order No. L-22012(130)/95-IR(C-ID) dated 10-10-95 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

"Whether the action of the management of Parasea 6 and 7 Incline Colliery under Kunustoria Area of ECL in dismissing Shri Tinu Bouri, U. G. Loader from the services w.e.f. 16/18-93 on charge of misconducts vide chargesheet Order No. ECL/P 6 and 7. Inc/P and IR/93/1363 dated 21-5-93 is legal and justified? If not, to what relief the concerned workman is entitled?"

2. Admitted facts.—The concerned workman named Tinu Bouri had been working as Underground Loader in Parasea 6 and 7 Incline colliery under Kunustoria Area. On 21-5-93 charge was framed against him for continuous absence from duty without permission or satisfactory cause for 19 days i.e. from 3-5-93 till the date of framing charge (21-5-93) and for habitual absence from duty during the period from April, 1992 to March, 1993. The chargesheet was served on the concerned workman and he submitted his reply. The same being found unsatisfactory by the management, an Enquiry Officer was appointed who conducted an enquiry and basing on his report the concerned workman was dismissed from service with effect from 16/18-9-93. The industrial dispute regarding the dismissal, raised by the union, was ultimately referred for adjudication. On preliminary hearing regarding validity of the enquiry proceeding, which was disposed of vide order dated 10-7-97, it was found that the enquiry proceeding suffered from improprieties sufficient enough to invalidate the whole enquiry. So final hearing was taken up with permission to the management to produce fresh evidence in support of its action of dismissing the workman and with permission to the workman to lead rebuttal evidence if any.

3. Absence from duty for 19 days till framing of charge by the concerned workman without permission stands admitted. The management filed photo copies of 'B' Form and 'C' Form Registers for the concerned months in the year 1992 and for the month of January 1993, to substantiate the alleged absence from duty by the workman during these months. The concerned workman filed medical documents to show that he was sick/unfit for duty from 19-8-93 to 1-9-92, from 6-1-93 to 2-2-93, from 2-4-93 to 11-4-93, on 3-5-93 and on 15-5-93. The plea of the workman is that because of periodical illness he could not attend his duty.

4. The concerned workman has failed to produce any material in support of his alleged periodical illness during April, 1992 to December, 1992. Similarly he has failed to produce any material in support of his alleged illness from 4-5-93 to 14-5-93 and again from 16-5-93 to 20-5-93. The logical inference is that the above periodical absence from duty by the concerned workman, was not for any justified reason.

5. But looking at the periods of absence, which are of short durations, the punishment of dismissal appears to be very much excessive. The appropriate punishment, for the given misconduct, should be reduction of Five Annual Special Piece-rated allowance from the wages of the concerned workman.

6. The contention by the management regarding gainful employment of the workman during the intervening period is not disputed by the workman.

7. Award.—The dismissal of the concerned workman is set aside with direction for his immediate reinstatement in service and the punishment to him for the misconduct is reduced of Five Annual Special Piece-rated Allowance from his wages. No back wages for the period from the date of dismissal to the date of reinstatement.

The reference is answered accordingly.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 17 अप्रैल, 1998

कां० प्र० 869.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स ई०सी०एल० के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-22012/250/95-आई०आर० (सी-II)]

नौ नो मरक, ईमेल प्रिडियरी

New Delhi, the 17th April, 1998

S.O. 869.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E. C. Ltd., and their workman, which was received by the Central Government on 13-4-98.

[No. L-22012/250/95-IR (C-II)]

LOWLI MAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 64 of 1995

PARTIES:

Employers in relation to the management of Bhanora Colliery, E.C.L.

AND

Their Workmen.

PRESENT:

Shri R. S. Mishra, Presiding Officer.

APPEARANCES:

For the Employers: Shri P. K. Goswami, Advocate.

For the Workmen: Shri S. K. Choudhary, Joint Secretary of the Union.

INDUSTRY: Coal.

STATE: West Bengal.

Dated, the 1st April, 1998

AWARD

By Order No. L-22012(250)/95-IR(C-II) dated 16-11-1995, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Bhanora Colliery under Sripur Area of ECL in denying fixation of wages in clerical grade-I of NCWA-IV w.e.f. 1-7-89 to Shri Shyamala Pd. Singh, Lamp Issue Clerk of Bhanora Colliery was legal and justified? If not, to what relief the concerned workman is entitled?"

2. Admitted facts.—The concerned workman named Shyamala Prasad Singh had been working in Bhanora Colliery as Lamp Issue Clerk in Clerical Grade-II. He was promoted to Clerical Grade-I with effect from 12-6-1987. By this time the NCWA-III and the wage structure provided under it had been still operative. On promotion, the pay of the workman in the promotional level was duly fixed. The next successive increments became due to him on 1-6-88 and

3. The union's version is that after getting the increment on 1-6-89, the basic pay of the workman in the wage structure as per NCWA-III, became Rs. 1,197. The union alleges that the wage structure as per NCWA-IV should be given effect to on 1-7-1989 and that accordingly through appropriate fitment in the new wage structure, the basic pay of the workman should be Rs. 1,834. The union further alleges that the management fixed the pay of the workman in the new wage structure on 1-7-1989 at a lower level i.e. at Rs. 1,768.

4. The management simply says that pay of the workman has been correctly and appropriately fixed in the new wage structure, as provided by NCWA-IV.

5. The basic point raised by the union in its dispute is that fitment of pay in respect of the concerned workman in the new wage structure provided by NCWA-IV, should be made on the date 1-7-1989. In fact, this is the dispute, as reflected by the reference, sent by the Ministry for adjudication.

6. But it clearly appears that the dispute has been raised by the union because of wrong conception regarding the date from which NCWA-IV, became effective. Although NCWA-IV was finalised by the Joint Bi-partite Committee for the Coal Industry on 27-7-1989, it was made effective and brought into force with retrospective effect from 1-1-1987.

7. On this date i.e. 1-1-1987, the workman was in Clerical Grade-II level. Therefore fitment of his pay in the new wage structure provided by NCWA-IV was made on 1-1-1987 in the pay scale applicable to Clerical Grade-II level. Thereafter he was given the annual increment on 1-3-1987, which was due to him in the pay scale applicable to Grade-II level. The promotion to Clerical Grade-I level came on 12-6-87 and so his basic pay was duly fixed in the pay scale applicable to Clerical Grade-I level, as provided by NCWA-IV. The next annual increment was due on 1-6-1988 and the second succeeding annual increment was due on 1-6-1989. Fitment of pay in the new wage structure provided by NCWA-IV, has been accordingly appropriately made by the management. The question of making fitment of pay in the new wage structure provided by NCWA-IV, on 1-7-1989, does not at all arise. The dispute is misconceived.

8. Award.—The action of the management in denying fixation of wages in respect of the concerned workman named Shyamala Pd. Singh in the wage structure provided by NCWA-IV with effect from 1-7-1989, was very much justified.

Reference answered accordingly.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 17 अप्रैल, 1998

कां.प्रा. 870.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई.सी.एल. के प्रबन्धन के संबद्ध निशोकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-22012/15/90-आई.आर. (सी-II)]

लौली माऊ, डेस्क अधिकारी

New Delhi, the 17th April, 1998

S.O. 870.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E.C. Ltd. and their workman, which was received by the Central Government on the 13-4-1998.

[No. L-22012/15/90-IR(C. II)]

LOWLI MAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 26 of 1990

PARTIES :

Employers in relation to the management of
Nutandanga Colliery of M/s. E.C.L.

AND

Their workmen.

PRESENT :

Shri R. S. Mishra, Presiding Officer.

APPEARANCES :

For the Employers : Shri P. Banerjee,

Advocate.

For the Union/Workmen : Shri B. Mukherjee,

Advocate.

INDUSTRY : Coal State : West Bengal

Dated, the 1st April, 1998

AWARD

By Order No. L-22012(15)/90-IR(C. II) dated 6-7-90 the Central Government in the Ministry of

Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Nutandanga Colliery of M/s. Eastern Coalfields Ltd., P.O. Nutandanga, Dist. Burdwan in denying employment to Shri Shama Prasad Banerjee, S/o Late Fakir Chand Banerjee, Ex-Attendance Clerk under Voluntary Retire Scheme is justified? If not, to what other relief is the concerned workman entitled to?”

2. The union's case is as follows :—The date of birth of the concerned workman was 16-12-1928 and accordingly the date of his superannuation would be 15-12-1988. While in employment, the workman suffered from incurable disease thereby becoming disable to continue his work. On his application for voluntary retirement on the ground of disability with the benefit of employment to his dependant son, he was referred to the Medical Board for his examination and opinion by the Medical Board whether he was fit or unfit for his job. The Medical Board found him unfit for his work. But inspite of such opinion, the management did not respond to his application for voluntary retirement with the benefit of employment to his dependant son. He died in the year 1984, while he was still in employment. The management should give employment to the dependant son of the concerned workman.

3. The management's case is as follows :—The workman alongwith in others was referred to the Medical Board/Age Determination Committee in the year 1977. The Medical Board assessed his age at 56 years and entry was accordingly made in the Form 'B' Register as against his name. On such basis, the workman completed 60 years in September, 1981 and he was accordingly given superannuation with effect from 19-9-1981. He might have died in the year 1984. But the management has nothing to do with his death because it was after his due superannuation. The workman also duly continued his work till the date of his superannuation.

4. The union produced two witnesses, out of whom one is the widow of the workman and the other is one of his erstwhile colleagues. The union also produced one document marked Ext. W-1. It is a letter dated 6-1-1983 written by the Senior Personnel Officer of the colliery where the workman had been working to the Dy. Personnel Manager of the connected area. The management produced one witness and six documents marked Exts. M-1, M-2, M-3, M-4, M-4/1 and M-5. All are photo copies of original documents. Ext. M-3 is a letter to the Manager of the particular colliery

unit where the workman had been working, giving instruction to direct the workman to appear before the Medical Board for assessment of age on the scheduled date. Ext. M-4 is the assessment of the Medical Board and Ext. M-4/1 is a letter dated 19-9-1977 to the colliery despatching the age assessment report by the Medical Board. Ext. M-1 is the relevant extract of the Form 'B' Register indicating that the report of the Medical Board was duly incorporated in the register, Ext. M-2 is the Attendance Register for the month of September, 1981 in respect of the workman. Ext. M-5 is the letter of superannuation issued to the workman.

5. The documents produced by the management reveal that in 1977 the Medical Board examined the workman and assessed his age to be 56 years. The age assessment report was communicated to the colliery in September, 1977 and thereafter the reported age assessment was incorporated in the Form 'B' Register. The management was correct in treating that in September, 1977 the age of the workman was 56 years. Naturally superannuation would follow in September, 1981. The notice of superannuation was rightly given by the management to the workman and his superannuation with effect from 16-9-1981, was correct.

6. The Attendance Register shows that during September, 1981, the workman worked for 13 days and that on rest of the working days before his retirement he took casual leave/availed restricted holidays. Naturally there was no disruption in his employment till the date of his superannuation.

7. During the relevant period, NCWA-II was operative. The relevant social security benefit is contained in para 10 : 4 : 3 of NCWA-II. Its relevant portion is as follows :—

10.4.3 * * * * *

(i) The disablement of the worker concerned should arise from injury or disease, be of a permanent nature resulting into loss of employment and it should be so certified by the Coal Company concerned.

(ii) * * * * *

The condition precedent before giving this benefit is that the disease must be of a permanent nature, the disease must result in loss of employment and that it should be so certified by the concerned Coal Company. It appears from the documents filed by the management that there was no disruption in the employment of the workman, much less loss of his employment and that accordingly there was no certificate by the concerned coal company regarding loss of employment. The widow of the workman who has been examined as witness No. WW-1 by the union has categorically admitted in her cross-examination that the workman worked upto 19-9-1981. This is the date of his superannuation. Obviously it stands admitted even by the widow of the workman that there was no loss of employment

of the workman. Therefore the question of giving employment to the dependant son of the workman does not arise.

8. The union contended by referring to the document filed by it that the Medical Board had examined the workman to find out his fitness for duty and that he was found unfit for his job. But mere unfitness for duty gives no right to the workman, unless the aforesaid three condition precedents are satisfied. No record is available to indicate that the disease was of a permanent nature. It has been duly established by the documents filed by the management and also through the evidence of the widow of the workman that there was no loss of employment on the part of the workman. Accordingly he gets no right to claim for employment of his dependant son.

9. Award :—The action of the management in not giving employment to the son of the workman was justified.

Reference answered accordingly.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 17 अप्रैल, 1998

कां० 871.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसेज ई०सी०एल० के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल-22012/106/95-आई०आर० (सी-II)]

लोली माऊ, डेस्क अधिकारी

New Delhi, the 17th April, 1998

S.O. 871.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. E. C. Ltd. and their workman, which was received by the Central Government on 13-4-98.

[No. L-22012/106/95-IR(C-II)]

LOWLI MAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, ASANSOL.

Reference No. 61 of 1995

PARTIES :

Employers in relation to the management of
Tilaboni Colliery of M/s. E. C. Ltd.

AND

Their Workmen.

PRESENT :

Shri R. S. Mishra, Presiding Officer.

APPEARANCES :

For the Employers : Shri P.K. Das, Advocate

For the Union/Workmen : Shri M. Mukherjee,
Advocate.

INDUSTRY : Coal. STATE : West Bengal.

Dated, the 1st April, 1998

AWARD

By Order No. L-22012/106/95-IR(C-II) dated the 20th October, 1995, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management forcing Shri Ganga Prasad Dutta, Asstt. Foreman, Tilaboni Colliery, a retired employee for second medical examination with a view to deprive the employment of dependent is justified ? If not, what relief the employee is entitled to ?"

2. The union's case is as follows :

The concerned workman named Shri Ganga Prasad Dutta had been working as Asstt. Foreman in Tilaboni Colliery. During employment he became physically unfit for his job. It was the year 1993. He applied for voluntary retirement with the benefit of employment to dependant son, in pursuance of Para 9-4-3 of the NCWA-IV. He was examined by the Medical Board on 24-9-1993 and the Board declared him medically unfit for his job. He was thereafter given voluntary retirement on this ground. He then put up the required application for employment of his son. But the management instead of providing employment to his dependent son, had illegally called upon the retired workman to be re-examined by another Medical Board.

3. The management's case is as follows :—

Admittedly the concerned workman was examined by the Medical Board on 24-9-1993 and he was declared medically unfit by the Medical

Board. Also admittedly the Medical Board's opinion was communicated to the workman. But the finding of the Medical Board was not accepted by the higher level of the management and so he was asked to again appear before the Medical Board for his re-examination. The workman has not yet appeared before the Medical Board for his re-examination and therefore the question of providing employment to his son does not arise.

4. During the year 1993, NCWA-IV was still operative. Para 9.4.3 of NCWA-IV provides for employment to one of the dependent of the worker who becomes permanently disabled during employment. The condition precedents are that the disablement should arise from injury or disease, it should be of permanent nature resulting in loss of employment of the worker and that it should be so certified by the concerned coal company. In case of general physical disability, not arising out of injury or disease, also, this benefit can be given provided age of the employee is up to 58 years.

5. The management's version is to some extent, mis-leading, because the management does not clearly say what happened to the workman after the Medical Board declared him unfit for his job. The union filed the photo copy of letter N.O. 740 dated 12-10-1993 sent to the workman by the Agent of the colliery. It is the letter of termination of the workman on medical ground. The relevant portion of the letter is as follows :

"Consequent upon the finding of the Medical Board, you have been declared unfit for designated job. Your termination of service have been approved by the competent Authority, vide letter No. BA/PU/A-II(28)/3076 dated 4/5-10-93 of Personnel Manager (IC), Bankola Area. As such your service are terminated on medical ground with effect from 13-10-93. You are advised to submit the application for employment of dependant (Son) para 9.4.3 of NCWA-IV."

So the fact is that the concerned workman was given voluntary retirement on the ground of medical disability with effect from 13-10-93 and while being so retired he was advised to submit application for employment of his dependant son.

6. Very strongly, according to the management's own case, the retired employee has been called upon to get himself re-examined by another Medical Board. May be, while scrutinising papers unfitness, by treating the entire idle period as duty for the purpose of giving employment to the dependant son of the retired workman, the management became unhappy with the finding of the Medical Board. But it is not permissible to the management to sit over the application for giving employment to the dependant son, because of such

a reason. If materials are available to support the view that the Medical Board's finding was incorrect|baseless, the management may either revoke the order of giving retirement on the ground of medical unfitness, by treating the entire idle period as duty-period and simultaneously by taking action against members of the Medical Board for giving an incorrect|baseless report or to give employment to the department son of the disabled employee. Here the management has given voluntary retirement to the employee on the ground of medical disability and the management does not question the Medical Board's finding on which the management acted for giving such voluntary retirement. What the management now wants to do is to get the retired workman re-examined, while scrutinising papers for the purpose of giving employment to this dependant son. Because of the provision in Para 9.4.3 of NCWA-IV, such a course is not permissible. The management is bound to honour the prayer for giving employment to a dependant of the employee who has already been given voluntary retirement on the ground of medical disability.

7. Award :—

The action of the management in forcing the concerned retired workman Ganga Prasad Dutta for second medical examination is not justified and direction to the management is to consider the workman's prayer for employment to his son on the accepted position that the employee was duly given retirement on the ground of medical disability in pursuance of the provision in Para 9.4.3 of the NCWA-IV. The management must dispose of the application of the retired employee for employment to his dependant within a period of two months.

Reference answered accordingly.

R. S. MISHRA, Presiding Officer

नई दिल्ली, 17 अप्रैल, 1998

का०ग्रा०. 872:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ई०सी०एल० के प्रबन्धतंत्र के संघ नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-4-98 को प्राप्त हुआ था।

[संख्या एल- 22012/228/91-ग्राई.आर. (सी-II)]

लोली माऊ, डेस्क अधिकारी

New Delhi, the 17th April, 1998

S.O. 872.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial Dispute between the employers in relation to the ma-

agement of M/s. E.C. Ltd. and their workman, which was received by the Central Government on 13-4-98.

[No. L-22012/228/91-IR(C-II)]

LOWLI MAO, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 2 of 1992.

PARTIES :

Employers in relation to the management of Parasea OCP of M/s. E. C. Ltd.

AND

Their Workmen.

PRESENT :

Shri R. S. Mishra, Presiding Officer.

APPEARANCES :

For the Employers : Shri P. Bauerjee, Advocate.

For the Union/Workmen : Shri M. Mukherjee, Advocate.

INDUSTRY : Coal. STATE : West Bengal.

Dated, the 2nd April, 1998

AWARD

By Order No. L-22012/228/91-IR (C.II) dated the 9th January, 1992, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Parasea OCP of M/s.ECL, P.O. Parasea, Dist. Burdwan, in dismissing Sh. Babulal Gope. Security Guard w.e.f.-12--7-88 is justified ? If not, to what relief is the concerned workman entitled to ?"

2. Admitted facts : —

The concerned workman named Babulal Gope had been working as Security Guard in Parasea Open Cast Project. On 24-8-1987 he and one Lakhman Majhi were assigned watch and guard duty in the second shift i.e. from 4 P.M. to 12 P.M. to take care of machineries at and near coal face of

Parasea Open Cast Project. After completion of second shift duty the concerned workman was relieved by another Security Guard named Lilmuni. On the next day the Senior Security Inspector presented a written report to the Project Officer intimating that during the working hours of the second shift, one 12 volt 25 plate lead acid storage battery fitted with Poclain 300 CK shovel, placed at the coal face was stolen by un-known persons and that the theft took place because the concerned workman and his companion did not perform the watch and guard duty. A chargesheet dated 28/29-8-1987 was framed against the concerned workman for negligence in duty and for dishonesty in connivance with the miscreants who stole away the company's property. The workman gave reply to the charge-sheet denying theft during his duty hours. An Enquiry Officer was appointed by the management. In the consequential enquiry two witnesses were examined on behalf of the management and some records were also placed on their behalf. The charge-sheeted workman examined himself and also produced four other witnesses on his behalf, during the enquiry. Lastly the Enquiry Officer submitted the report of his enquiry, mentioning that both the charges were duly proved. The management ultimately dismissed the concerned workman from service vide dismissal letter No. 4476 dated 9/12-7-1988.

3. Hearing on the preliminary point covering the question of validity of the enquiry was disposed of vide order dated 9-7-1997. No impropriety or invalidity in the enquiry having been found final hearing on the available materials was taken up to decide the questions (i) whether the available materials indicate any misconduct on the part of the workman and (ii) whether the punishment of dismissal is proportionate to the established misconduct.

4. Admittedly the Security Guard named Lilmuni relieved the concerned workman at the end of the second shift duty. The workman has admitted this also in his reply to the chargesheet. This Security Guard named Lilmuni has been examined as management's witness No. 2. His statement is that after relieving the charge-sheeted workman at the end of the second shift duty, he checked machineries at the site and found the battery to have been stolen away. It is also his statement that he saw Fitu Ram coming there during his patrol duty and that he drew the attention of Fitu Ram to the incident. Lilmuni further stated that Fitu Ram also personally checked and saw the battery missing. This Fitu Ram had been acting as Security Havildar during the relevant period and he has been examined as management's

witness No. 1. His statement is that at about 1 A.M. in the night (during third shift duty hours) while he had been going round on patrol duty at Parasea Open Cast Project, he had the occasion to personally check and found that the battery was stolen. He added that early in the next morning he informed the matter to the Senior Security Inspector. It may be recalled that admittedly the Senior Security Inspector presented a written report about the theft to the Project Officer. The charge-sheeted workman attempted to introduce a plea through some of his witnesses that the theft was detected not by Lilmuni and Fitu Ram, but by an Electrician who came to start a generator when failure of power supply took place. Obviously the purpose behind this attempt, was to discredit the management's witnesses and to disprove the allegation against him. However, the statements of the management's witnesses appear to be quite natural.

5. The consequential conclusion is that theft of the battery was detected soon after the second shift duty of the concerned workman was over. Timing of the theft was apparently shortly before its detection and so timing of the theft was certainly during the second shift duty period of the concerned workman. His watch and guard duty was at and near the coal face, where the battery was placed. The theft could not have been possible, without lapses in duty on the part of this workman and the other Security Guard who was his companion in duty. The materials on record clearly establish the charge of negligence on duty.

6. Now coming to the other charge of connivance with the miscreants who committed the theft, it is found that identity of the miscreants is not known. For this reason alone, this workman cannot be linked on record with the specific thieves. Apart from that, there is absolutely no material from the side of the management, which can even remotely suggest connivance by the workman with the un-known thieves. The second charge of dishonesty in conniving with the thieves does not accordingly stand established.

7. The records reveal that the workman was placed under suspension with effect from 25-8-1987 till his dismissal from service. The value of stolen battery is neither indicated nor known. Records do not reflect earlier history of lapses in duty on the part of the workman. Punishment of dismissal from service appears to be highly excessive. The punishment may be appropriately limited to suspension from 25-8-1987 to the date of dismissal i.e. 12-7-1988 and stoppage of five increments with cumulative/future effect. No entitlement to back wages.

8. Award :—

The punishment of dismissal of the concerned workman named Babulal Gope from service is set aside and the punishment on the basis of the charge-sheet dated 28/29-8-1987 framed against him is reduced to punishment of suspension from service during the period from 25-8-1987 to 12-7-1988 and stoppage of five annual increments

in his pay scale with cumulative/future effect. Direction is to reinstate him in service immediately and to impose this reduced punishment to him on the basis of the given chargesheet. No entitlement to back wages.

Reference answered accordingly.

R. S. MISHRA, Presiding Officer